

**立法會**  
**Legislative Council**

Ref : CB2/PL/CA

LC Paper No. CB(2)2097/14-15  
(These minutes have been seen  
by the Administration)

**Panel on Constitutional Affairs**

**Minutes of meeting**  
**held on Monday, 15 June 2015, at 2:30 pm**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)  
Hon Paul TSE Wai-chun, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon CHAN Kam-lam, SBS, JP  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Dr Hon LAM Tai-fai, SBS, JP  
Hon CHAN Kin-por, BBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon Claudia MO  
Hon James TIEN Pei-chun, GBS, JP  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin  
Hon WU Chi-wai, MH  
Hon YIU Si-wing  
Hon Gary FAN Kwok-wai

Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHAN Yuen-han, SBS, JP  
Hon Alice MAK Mei-kuen, JP  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kong, SBS, JP  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan  
Hon Tony TSE Wai-chuen, BBS

**Members  
absent** : Hon James TO Kun-sun  
Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon CHEUNG Kwok-che  
Hon WONG Yuk-man  
Hon Michael TIEN Puk-sun, BBS, JP

**Public Officers  
attending** : Items II and III  
  
Mr LAU Kong-wah  
Under Secretary for Constitutional and Mainland Affairs  
  
Mr Gordon LEUNG Chung-tai  
Deputy Secretary for Constitutional and Mainland  
Affairs  
  
Mr LI Pak-hong  
Chief Electoral Officer  
Registration and Electoral Office  
  
Miss Candy MA Siu-hung  
Principal Electoral Officer  
Registration and Electoral Office

Item IV

Mr LAU Kong-wah  
Under Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai  
Deputy Secretary for Constitutional and Mainland  
Affairs

Mr LI Pak-hong  
Chief Electoral Officer  
Registration and Electoral Office

Miss Jennie CHAN Cheuk-yin  
Deputy Chief Electoral Officer  
Registration and Electoral Office

**Clerk in attendance** : Ms Joanne MAK  
Chief Council Secretary (2) 3

**Staff in attendance** : Mr Kelvin LEE  
Assistant Legal Adviser 1

Miss Cindy HO  
Senior Council Secretary (2) 3

Miss Connie AU  
Council Secretary (2) 3

Mrs Fonny TSANG  
Legislative Assistant (2) 3

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**I. Information papers issued since the last meeting**  
[LC Paper No. CB(2)1692/14-15(01)]

The Panel noted a referral from the Public Complaints Office on issues relating to opening of bank accounts by ethnic minorities had been issued to members after the last meeting.

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**II. Items for discussion at the next meeting**

[LC Paper Nos. CB(2)1693/14-15(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 20 July 2015 at 2:30 pm -

- (a) publicity for the 2015 District Council ("DC") Election; and
- (b) briefing by the Chairperson of the Equal Opportunities Commission.

**III. Practical arrangements for the 2015 DC Election**

[LC Paper Nos. CB(2)1459/14-15(05) and (06)]

3. The Under Secretary for Constitutional and Mainland Affairs ("USCMA") and the Chief Electoral Officer ("CEO") of the Registration and Electoral Office ("REO") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1459/14-15(05)]. Members noted the background brief prepared by the Legislative Council ("LegCo") Secretariat [LC Paper No. CB(2)1459/14-15(06)].

Discussion

*Checking measures*

4. Dr Helena WONG and Ms Claudia MO expressed concern about the suspected "vote-rigging" cases (e.g. cases involving electors with an unusual number of surnames using the same residential address for registration, registered addresses being non-residential units, non-existent addresses or units of demolished buildings) and enquired how such cases could be identified.

5. CEO said that following the 2011 DC Election, REO had stepped up efforts in ensuring the accuracy of the voter registers. REO had implemented checks on multiple electors or multiple surnames of electors registered with the same residential address, addresses with incomplete information, commercial addresses or suspected non-residential addresses, and on addresses of buildings already demolished or to be demolished. Besides, ongoing efforts were made to verify electors' registered residential addresses through cross-matching of data with the Housing Department, the Hong Kong Housing Society and the Home Affairs Department ("HAD").

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6. Ms Claudia MO asked whether consideration would be given to requiring an applicant to provide an address proof together with his/her voter registration ("VR") application. CEO said that the Administration had conducted a review on the VR system in late 2011 and proposed a series of improvement measures which included, among others, the proposal to request address proof upon submission of applications for VR or change of registration particulars. The proposal was subsequently dropped in light of the outcome of the public consultation.

7. Mr WONG Kwok-hing and Miss Alice MAK expressed concern that some elderly electors might have lost their voting rights simply because they were not aware of REO's inquiry letters or the need to respond to such letters. Ms Starry LEE queried the legal basis for the requirement that an elector had to provide address proof to REO in the inquiry process. CEO explained that in the 2015 VR cycle, based on the checking results and in accordance with the relevant electoral laws, REO had initiated the inquiry process for about 82 000 electors because REO had reasonable grounds to believe that their registered addresses were no longer their only or principal residence in Hong Kong. REO would contact the electors concerned by phone, email or fax according to the contact details they had provided, so as to remind them to confirm or update their registration particulars before the statutory deadline of 2 July 2015. For some 10 000 of the electors concerned who had not provided their contact information apart from their residential addresses to REO, REO would collaborate with HAD to conduct home visits to the electors concerned and remind them to respond to the inquiry letters before the deadline. Publicity measures were also launched to remind the electors under inquiry to reply to REO in a timely manner. Mr IP Kwok-him suggested that the home visits should also be made to all of the electors covered in the inquiry process, so that REO might verify the electors' registered addresses on the spot rather than seeking address proof from the electors concerned. CEO explained that, where the electors had provided alternative means of communication (e.g. phone number), REO would try to contact them by those means to remind them of the statutory deadline. The purpose of the home visit was to remind those without such alternative means of communication.

8. CEO said that the elector concerned could provide documents such as water/electricity/gas bills and bank statements as proof of residential address, if address proof was required. REO would also accept the address proof of another person who resided with the elector at the registered address

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together with a declaration made by the elector to confirm that they were residing at the same address. Templates of relevant declaration forms could be downloaded at REO's website.

9. Ms Starry LEE enquired whether electors could check online whether their names had been included in the Omissions List. CEO said that after the Omissions List was published on or before 1 August 2015, an elector could check whether his/her name had been on the list through the Online Voter Information Enquiry System. Furthermore, the Omissions List would be made available for public inspection at REO or the public enquiry service centres of the 18 District Offices during the specified period. As an established administrative measure, REO would also issue reminder letters by surface mail to those electors whose names had been included in the Omissions List. CEO advised that the electors should confirm or update the residential addresses or submit their claims if they wished to reinstate their registration status. If their updating of registration particulars or claims were allowed by the Revising Officer, their names would be included in the final registers of electors to be published in September 2015.

10. Dr Priscilla LEUNG said that while she supported measures to prevent "vote-rigging", the relevant checking measures should not cause unreasonable inconvenience to the electors. She found that the content of REO's inquiry letters issued to electors covered by the checking measures was not easily comprehensible.

11. Mr LEUNG Yiu-chung proposed that in respect of electors who failed to respond to REO's inquiry letters, their names should be kept on the electoral register but they would be entitled to vote subject to the provision of address proof on or before the polling day. Mr Paul TSE expressed similar concern and proposed that the names of these electors be put on a separate register to facilitate reinstatement of their registration status beyond the statutory deadline subject to the provision of address proof. Dr CHIANG Lai-wan suggested that REO might assign a dedicated team on the polling day specifically to deal with complaints from electors who reported that they were unable to vote and requested to reinstate their registration status immediately. CEO explained that implementing the proposals might cause uncertainty in the electoral process as the voting eligibility of some persons on the final registers would be subject to changes. He added that, for electors who had been included on the Omissions List, a rigorous process needed to be gone through before the VR status could be reinstated in accordance with the electoral law.

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12. Mr Christopher CHEUNG enquired whether REO's publicity efforts would also target Hong Kong permanent residents who resided on the Mainland or overseas. CEO said that REO would only conduct VR publicity locally given that under the electoral law, eligible electors should ordinarily reside in Hong Kong and provide a genuine address in Hong Kong as his/her principal residential address for VR purpose.

*Election-related complaints*

13. Dr Helena WONG and Dr KWOK Ka-ki said that as reported by the media during the past elections, some elderly electors were taken to the polling stations to cast their votes by free transportation and a label showing a number (which was believed to be a candidate number) was seen affixed to the palm of the electors concerned. Ms Claudia MO enquired whether these media reports had eventually led to any successful prosecution. CEO explained that the provision of transportation service to electors might be interpreted as "any other service" under the definition of "advantage" in section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO"). If the transportation service was offered as an inducement to get, or try to get a third person to vote at the election for a particular candidate, the person who offered the transportation service might run the risk of contravening ECICO. Cases with prima facie evidence would be referred to the law enforcement agencies for follow-up investigation.

14. Mr CHAN Chi-chuen said that some electors had the experience that when they tried to claim their ballot papers at their assigned polling stations, they were told that someone else had earlier been issued with ballot papers using the same identity of the electors concerned. He enquired about how REO would deal with the situation on the spot. CEO advised that according to section 60 of Electoral Affairs Commission (Electoral Procedure) (DC) Regulation (Cap. 541F), the Presiding Officer ("PRO") might issue a ballot paper endorsed on the front of it with the words "重複" and "TENDERED" to that person. However, these ballot papers would not be regarded as valid in vote counting. CEO said that it was an offence if a person applied for a ballot paper in another person's name under section 15 of ECICO. Complaints had been referred to law enforcement agencies for follow-up investigation in past elections.

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*Use of social media for publishing election advertisements ("EAs")*

15. Mrs Regina IP enquired whether candidates could use social networking or communication websites during the election period to respond to smearing activities against them. CEO replied that candidates could use social networking or communication websites to publish information during election period. But he explained that any material published for the purpose of promoting or prejudicing the election of any candidate in an election (including candidates' response to smearing activities) would be regarded as an EA and subject to the public inspection requirement. Candidates would need to post the hyperlinks to the relevant social networking or communication websites (such as Facebook or YouTube) onto the Central Platform maintained by CEO in order to satisfy the public inspection requirement in relation to EAs.

16. Miss Alice MAK said that at the last meeting, she had raised concern that many candidates used different electronic platforms for distribution of EAs to promote themselves. She added that it was also not uncommon that people might indicate support to a candidate by inserting a "Like" sign or posting supportive comments on a candidate's webpage. She noted with concern that according to REO, an individual sharing an EA on social media without the prior consent of the candidate might have breached section 23 of ECICO as only a candidate or a person who had been duly authorized by the candidate as his/her election expense agent might incur election expenses. In this regard, she considered that efforts should be made by the Administration to promote public awareness of relevant provisions governing EAs.

17. CEO explained that, generally speaking, if web surfers merely shared or forwarded different candidates' election campaigns through on-line platforms and did not intend to promote or prejudice the elections of any candidates, such sharing or forwarding would not fall within the definition of publishing EAs. He would relay members' concern to the Independent Commission Against Corruption ("ICAC") for consideration of providing appropriate guidance on relevant issues. Dr Priscilla LEUNG considered that the Administration should review the existing arrangement, so that minor breaches of ECICO would be followed up by REO instead of ICAC.

18. Mr SIN Chung-kai suggested that REO should remind the registered electors before the coming election that their email addresses provided to REO would be provided to candidates for sending EAs to them. CEO agreed to consider Mr SIN's suggestion.



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*(Post-meeting note:* The Administration has advised that REO has sent an email in August 2015 to registered electors who have provided email addresses in their VR application, reminding them that candidate(s) standing for election in their respective constituency may send EAs for the 2015 DC Ordinary Election to their said email addresses.)

*Assistance to incapacitated electors*

19. Mr LEUNG Yiu-chung considered that when a polling staff member assisted an incapacitated elector (e.g. an elderly) in marking the ballot paper, he/she should do so in the presence of a third party as a witness. CEO explained that there were provisions in the relevant legislation setting out the arrangement that incapacitated electors who were unable to mark a ballot paper might ask PRO, Deputy Presiding Officer or Assistant Presiding Officer to do so on his/her behalf. This would be done in the presence of one of the polling officers as a witness and all these cases would be properly recorded.

*Exit poll*

20. Mr LEUNG Yiu-chung and Dr KWOK Ka-ki expressed concern about the background of the persons or organizations conducting exit polls (or the pollsters), and the possible use of exit poll results by political parties to plan their electioneering activities before the close of poll. Mr LEUNG enquired whether his proposals raised at the last meeting would be followed up by REO, including designating an area outside each polling station for the exclusive use of interviewers and the electors being interviewed; and disallowing interviewers to carry mobile telephones or other communication devices to avoid premature disclosure of relevant figures.

21. CEO emphasized that there were sufficient safeguards to ensure the integrity of exit polls. Firstly, organizations or persons applying for the conduct of exit polls were required to sign an undertaking not to release, directly or indirectly, the results of the exit polls or make specific remarks or predictions on the performance of any candidate before the close of poll. Secondly, applicants had to declare that they were neither contesting nor had members contesting in the constituency(ies) covered by the exit poll and had not publicly expressed support for any candidate contesting in the constituency(ies). Furthermore, to ensure transparency, a list of approved pollsters would be uploaded to the election website before the polling day;

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and a notice showing the particulars of the approved pollsters with their contact numbers would also be displayed at each of the polling stations concerned. In addition, the interviewers were required to display prominently an identification device showing the identity of the organization conducting exit poll, and to read out a standard script to the interviewee before conducting the interview, that the exit poll was not commissioned by the Government and that the interviewee was entirely at liberty as to whether to respond to the pollster.

*Measures to facilitate ethnic minority electors to vote*

22. Dr KWOK Ka-ki enquired whether REO would take measures to facilitate ethnic minority electors to vote in the election and help them better understand the candidates' election platforms. CEO responded that all polling stations were equipped with a language assistance folder containing voting instructions written in seven ethnic minority languages to assist those who could not communicate in Chinese and English to understand the voting procedures. REO would collaborate with the Centre for Harmony and Enhancement of Ethnic Minority Residents to provide interpretation service in seven ethnic minority languages, through REO telephone hotline service, to help electors of ethnic minorities understand the voting procedures. At the same time, candidates were encouraged to take into account the special needs of persons who could not communicate in Chinese or English.

*Congestion at polling places*

23. Mr CHAN Chi-chuen enquired how REO would ensure unobstructed passage to the polling stations. CEO advised that an area immediately outside the polling station was designated as the No Canvassing Zone ("NCZ") and No Staying Zone ("NSZ") in order to maintain free passage for electors and to ensure that electors were not unduly harassed on their way to a polling station. On the polling day, PRO would ensure that no person would carry out any activity other than those permitted in a NCZ or NSZ.

24. Mrs Regina IP enquired whether REO would ensure that civil servants required to work at the polling stations (including electoral staff and staff of the disciplinary forces engaged to carry out election-related duties on the polling day) would have sufficient time to cast their vote at the polling stations assigned for them to vote. CEO responded that according to the existing staff deployment guidelines, REO would arrange a staff member to work in a polling station close to his/her principal residence other than one holding a poll for the DC constituency area where they lived. Mrs IP

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suggested that REO should issue letters to remind heads of departments to make arrangements to facilitate voting by their staff members. CEO agreed to consider the suggestion.

**IV. Provisional recommendations on boundaries and names of geographical constituencies ("GCs") for the 2016 LegCo General Election**

[LC Paper Nos. CB(2)1542/14-15, CB(2)1652/14-15(01) and CB(2)1693/14-15(03)]

25. CEO briefed members on the salient points of the Administration's paper [LC paper No. CB(2)1652/14-15(01)]. Members noted the updated background brief prepared by LegCo Secretariat [LC Paper No. CB(2)1693/14-15(03)].

Discussion

26. Mr CHAN Kam-lam commented that the Administration had adopted an easy way out in delineating the boundaries of GCs but that would possibly cause unfairness as the size of projected population served by each LegCo Member differed considerably between certain GCs. Taking New Territories ("NT") West GC and the NT East GC as examples, Mr CHAN pointed out that while the proposed number of LegCo seats for both GCs was nine, their projected population differed by over 300 000. He also pointed out that the number of valid votes that would need to be obtained by a candidate in order to win a seat in a GC allocated with nine seats would be much smaller than that in a GC with five seats. Mr CHAN suggested that there should be a more even distribution of LegCo seats among the proposed GCs.

27. CEO responded that as stipulated under the Electoral Affairs Commission ("EAC") Ordinance (Cap. 541), in the allocation of seats, EAC would have to ensure that the population in each proposed GC was as near as practicable to the number which resulted (i.e. "the resulting number") when the population quota was multiplied by the number of Members to be returned by that GC. Where it was not practicable to comply with the aforementioned requirement in respect of a proposed GC, EAC would have to ensure that the population in that GC should not exceed or fall short of the resulting number applicable to that GC by more than 15%. This was to ensure that the allocation of LegCo seats among the proposed five GCs would be in line with the principle of "equal representation".

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28. Dr CHIANG Lai-wan asked why the numbers of Members to be returned for Hong Kong Island GC and Kowloon West GC were proposed to be adjusted from seven to six and from five to six respectively when the number of GCs and the upper and lower limits on the number of Members to be returned for the proposed GCs would all remain unchanged. CEO reiterated that in allocating the 35 seats among the five proposed GCs, EAC had to ensure that the population in each proposed GC was as near as practicable to the resulting number as required under section 20(1)(a) of EAC Ordinance. In each delineation exercise, EAC would have to consider the allocation of LegCo seats among the proposed GCs based on their projected population. CEO added that the then existing allocation of seats for the GCs was not a consideration in the delineation exercise under the statutory criteria.

29. Dr Priscilla LEUNG said that the extremely large area covered by the two NT GCs had posed immense difficulties to the incumbent LegCo Members returned from these GCs in serving their constituents. She considered that EAC's considerations in the delineation exercise should also include service quality.

30. Mr Paul TSE expressed concern that the rate of deviation of the population from the resulting number in Kowloon West GC and NT West GC would be -9.63% and +10.82% respectively. He asked whether consideration would be given to amending LegCo Ordinance (Cap. 542) to provide that the number of Members to be returned for each GC was to be a number not less than five nor greater than 10 (instead of nine). In this way, EAC might consider allocating 10 seats to NT West GC in view of its large population. Mr LEUNG Yiu-chung asked whether the Administration would consider increasing the number of GCs to six. USCMA said that the decision of maintaining the existing number of GCs as well as the existing upper and lower limits of seats returned for each GC was based on the outcome of the five-month public consultation on the methods for selecting the Chief Executive in 2017 and for forming LegCo in 2016. The relevant issues had been reported to the Panel and discussed at its meeting on 16 March 2015.

31. Mr Paul TSE and Dr Priscilla LEUNG enquired if there would be another meeting to further discuss the subject. The Chairman said that members might provide their further views and comments to EAC before the consultation deadline of 19 June 2015.

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**V. Any other business**

32. There being no other business, the meeting ended at 4:32 pm.

Council Business Division 2  
Legislative Council Secretariat  
10 September 2015