

Legislative Council Panel on Constitutional Affairs

**Proposed Guidelines issued by the Electoral Affairs Commission
on Election-related Activities in respect of the District Council Election**

PURPOSE

This paper seeks Members' views on the Proposed Guidelines on Election-related Activities in respect of the District Council ("DC") Election ("the proposed guidelines") issued by the Electoral Affairs Commission ("EAC").

BACKGROUND

2. Under section 6(1)(a) of the EAC Ordinance (Cap. 541), the EAC may issue guidelines relating to the conduct or supervision of an election. These guidelines aim to provide a code of conduct based on the principle of fairness and equality for conducting election-related activities. They also give guidance in layman's language on compliance with the relevant electoral legislation.

3. It has been the established practice of the EAC to update and publish the guidelines before a DC ordinary election, for adoption in the ordinary election and any by-elections to be held thereafter. The updated guidelines will incorporate changes in the electoral legislation and take into account revisions which are needed in the light of past experience to enhance and align the provisions therein.

4. Since the guidelines were last updated in September 2012, legislative amendments have been made to the electoral legislation to effect a number of changes relating to the electoral and voter registration arrangements, e.g., the total number of DC constituencies to be adopted in the 2015 DC ordinary election, timeframe of the voter registration cycle, means of delivery of electoral notices by candidates, counting procedures at the main counting stations, notice of designation of polling and counting stations, subsidy rate of the financial assistance scheme and the election expenses limit for candidates of DC elections, etc.

THE PROPOSED GUIDELINES

5. The next DC ordinary election will be held on 22 November 2015 and, in this regard, the EAC has updated the guidelines for DC elections for public consultation. The guidelines finalised afterwards will be adopted in the 2015 DC ordinary election and any by-elections to be held afterwards. Compared to the last edition, the major revisions in the proposed guidelines are-

- (a) to reflect the legislative amendments in respect of the DC election referred to in paragraph 4 above; and
- (b) to improve the presentation in certain parts of the guidelines to make them easier to understand.

6. In drawing up the proposed guidelines, the EAC has taken into account the operational experience in past elections and has suggested revisions in the interest of clarity and compliance. Furthermore, relevant government departments have been consulted on the parts of the proposed guidelines which fall within their respective work purviews. For Members' easy reference, the major changes, as compared with the existing guidelines, are set out at the **Annex**.

PUBLIC CONSULTATION PERIOD

7. Section 6(2) of the EAC Ordinance stipulates that the EAC shall consult the public in relation to the guidelines. The public consultation for the proposed guidelines runs for a period of 30 days from 5 May to 3 June 2015 (both dates inclusive).

8. During the consultation period, members of the public are welcome to submit their views on the proposed guidelines to the EAC in writing. They may also attend the public forum to be held on 19 May 2015 to present their views to the EAC orally.

9. The EAC will take into account the views received during the public consultation period in finalising the guidelines. The finalised guidelines will be issued around late August 2015.

ADVICE SOUGHT

10. Copies of the proposed guidelines have been distributed to Members. Members are invited to note and comment on the proposed guidelines. Members are also welcome to forward their views to the EAC Secretariat by post (at 10/F Harbour Centre, 25 Harbour Road, Wan Chai, Hong Kong), by fax (fax no.: 2511 1682) or by e-mail (eacenq@reo.gov.hk), during the public consultation period.

Registration and Electoral Office
May 2015

**Major Changes in the Proposed Guidelines on Election-related Activities
in respect of the District Council Election
as Compared with the Existing Guidelines Issued in September 2012**

Relevant Chapter	Major changes
Chapter 1 <i>Introduction</i>	<ul style="list-style-type: none">• setting out the updated composition of the District Councils (“DC”) with effect from 1 January 2016 after the abolition of appointed members (para. 1.3); and• revising the total number of DC constituencies for the 2015 DC ordinary election to 431 in accordance with Schedule 3 to the District Councils Ordinance (Cap. 547)(“DCO”) (para. 1.5).
Chapter 2 <i>Registration of electors and voting system</i>	<ul style="list-style-type: none">• revising the key dates of the voter registration timeframe in accordance with the amendments made to sections 4, 13(1), 14(2), 15(7) and 17(9)(a) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) (paras. 2.6, 2.11, 2.13 to 2.16); and• setting out clearly the Electoral Registration Officer’s checking measures to ensure the accuracy of electors’ particulars in the registers and highlighting that it is an offence to knowingly or recklessly give false or misleading information for voter registration (para. 2.12).
Chapter 4 <i>Polling and counting arrangements</i>	<ul style="list-style-type: none">• specifying a deadline for gazetting the list of polling stations, ballot paper sorting stations and counting stations and revising the deadline for the Returning Officer to give notice to candidates about the place(s) of the counting of votes in accordance with the amendments made to sections 31(1) and 65(4) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F) (“EAC (EP) (DC) Reg”) (para. 4.1); and• amending the description of the counting procedures for

Relevant Chapter	Major changes
	<p>main counting stations to remove possible procedural ambiguities in accordance with the amendment made to section 75(1A) of the EAC (EP) (DC) Reg (para. 4.53(a) and (h)).</p>
<p>Chapter 6 <i>Appointment and roles of election agent, election expense agents, polling agents and counting agents</i></p>	<ul style="list-style-type: none"> • updating the guidelines to include the use of electronic mail as a means of delivery of certain electoral documents, such as notices of appointment and revocation of appointment of election agents, election expense agents, polling agents and counting agents in accordance with the amendments made to sections 26(13), 26(15), 28(7), 28(12A), 45(5D), 45(11), 45(11A), 66(4A) and 66(9A) of EAC (EP) (DC) Reg (Parts V to VIII of the Chapter).
<p>Chapter 7 <i>Election advertisements</i></p>	<ul style="list-style-type: none"> • providing guidelines on application for temporary occupation of government land at public place for holding electioneering activities to remind candidates of the relevant procedures (Part V of the Chapter).
<p>Chapter 8 and Appendix G <i>Electioneering activities at premises or buildings where electors reside, work or frequent</i></p>	<ul style="list-style-type: none"> • incorporating a case as suggested by the Office of the Privacy Commissioner for Personal Data to remind candidates who wish to use the personal data collected from other sources for electioneering purpose to state clearly the intended use of the data at the time of collection (para. 8.18 and Case 4 of Appendix G).
<p>Chapter 10 <i>Election broadcasting, media reporting and election forums</i></p>	<ul style="list-style-type: none"> • elaborating the application of the “fair and equal treatment” principle in producing and conducting election-related programmes by licensed broadcasters (paras. 10.5, 10.10 and 10.21); and • reminding the print media to ensure that news reports or references made in their publications should not give unfair publicity to any particular candidate or candidates in accordance with the “fair and equal treatment” principle (paras. 10.18 and 10.20).

Relevant Chapter	Major changes
<p>Chapter 14 <i>Exit poll</i></p>	<ul style="list-style-type: none"> • updating the administrative procedures in approving applications for the conduct of exit polls to reflect the arrangements which have been put in place to ensure the fairness of election (para. 14.6).
<p>Chapter 15 and Appendix O <i>Election expenses and election donations</i></p>	<ul style="list-style-type: none"> • reminding candidates of the need to apportion expenses between election-related purposes and any other purposes (para. 15.6); • revising the maximum amount of election expense which can be incurred by or on behalf of a candidate in a DC election (para. 15.10); • reminding candidate(s), or any person or organisation acting as an agent for the candidate(s) to comply with all the legislative requirements in seeking or soliciting election donations and to adopt the suggested good practices in Appendix O (para. 15.22); and • revising the subsidy rate of financial assistance for eligible candidates of DC election (para. 15.38).
<p>Chapter 17 <i>Namedropping</i></p>	<ul style="list-style-type: none"> • providing clearer guidelines on the mention of office titles by supporters when giving consent of support to candidates (para. 17.4).