

立法會

Legislative Council

LC Paper No. CB(2)1459/14-15(06)

Ref : CB2/PL/CA

Panel on Constitutional Affairs Background brief prepared by the Legislative Council Secretariat for the meeting on 18 May 2015

Practical arrangements for the 2015 District Council Election

Purpose

This paper summarizes the previous discussion of the Panel on Constitutional Affairs ("the CA Panel") on issues relating to the practical arrangements for the 2011 District Council ("DC") Election and the Electoral Affairs Commission ("EAC") Report on the 2011 DC Election.

Background

2. EAC is a statutory and independent body responsible for the conduct and supervision of elections. Supported by the Registration and Electoral Office ("REO"), EAC is tasked to review and make recommendations on the delineation of the Legislative Council ("LegCo") and DC constituency boundaries, and to make regulations, guidelines and arrangements for the registration of electors and the conduct of public elections.

3. According to section 6(1)(a) of the EAC Ordinance (Cap. 541), EAC may issue guidelines relating to the conduct or supervision of an election. EAC will update the guidelines before each election taking into account the operational experience and suggestions for improvements obtained from recent elections and by-elections. In accordance with section 8 of the EAC Ordinance, 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 EAC has any function under the Ordinance or any other Ordinance. The report will contain a review of relevant electoral arrangements and improvement measures for future elections.

Relevant discussions of the CA Panel

4. The CA Panel discussed issues relating to the practical arrangements of the 2011 DC Election at its meetings held on 21 February, 18 March and 20 June

2011. The CA Panel also discussed the EAC Report on the 2011 DC Election on 19 March 2012. The recommendations in the EAC Report on the 2011 DC Election are in **Appendix I**. The major issues raised by members at these meetings are summarized in the following paragraphs.

Conduct of electioneering activities through electronic media

5. Some members were of the view that candidates should be allowed to present their election platform through the electronic media so that electors would be able to obtain adequate information about the candidates. According to the Administration, it had been the established policy that election advertisement ("EA") through electronic media was not allowed so as to ensure a level playing field for all candidates. Nevertheless, candidates were expected to continue making use of the new media on the Internet to conduct publicity work for their election campaigns.

6. Some members considered that as there was a rising trend for candidates to use the Internet to promote their candidature but the expenses so incurred were not counted as election expenses, the Administration should review the existing arrangement. The Administration undertook to discuss with REO about the expenses incurred by election publicity on the Internet, including the method for calculating the production cost.

Conduct of electioneering activities in private premises

7. Some members pointed out that some management bodies did not adhere to the equal treatment principle in handling requests for conducting electioneering activities in their premises and favouritism was shown by these bodies towards some candidates. They considered that EAC should introduce measures to prohibit discriminatory treatment of candidates in private premises.

8. The Administration advised that there were election guidelines to be observed by owners, management and organizations for handling applications for conduct of electioneering activities in the premises within their jurisdiction. They were required to adhere to the fair and equal treatment principle. In case a complaint against a management body for unequal treatment was substantiated, EAC could make a censure or reprimand in a public statement against the management body concerned.

Submission and distribution of election materials

9. Some members were of the view that there should be clear guidelines setting out the relevant legislation governing EAs (including messages sent through mobile phone short message services ("SMS") or other multimedia

messaging services). The Administration advised that according to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), any material published for the purpose of promoting or prejudicing the election of a candidate or candidates in an election was an EA. For SMS which fell within the definition of an EA, candidates should make the necessary declaration to REO. Candidates were also required to declare any expenses incurred by the production of these messages. The Administration advised that consideration would be given to reviewing the relevant guidelines with a view to facilitating compliance with the relevant electoral legislation.

Polling hours

10. Some members were of the view that the polling hours (from 7:30 am to 10:30 pm) of past elections were too long and would discourage civil servants from working at polling stations on the polling day. They suggested that the Administration should consider shortening the polling hours to facilitate vote counting arrangements and to save staffing resources. It was suggested that the Administration should study the voters' turnout rate in the last few hours of the polling period to ascertain the possible effect on electors. Some members, however, considered it appropriate to maintain the existing polling hours.

11. The Administration advised that the voters' turnout rate was fairly consistent throughout the polling hours. The proposal to shorten the polling hours was not well-received in the past on the grounds that it would affect some electors' desire for voting as they would prefer to vote after dinner. The Administration, however, would ensure that there was sufficient manpower for the conversion and counting process. It would also consider whether the polling hours should be revised having regard to the views of members.

Access to polling stations

12. Some members expressed concern about whether adequate special arrangements were available for electors with disabilities to facilitate their access to polling stations. Some members enquired about the criteria for selecting venues for use as polling stations. The Administration advised that in looking for a suitable venue for use as a polling station, REO would take into consideration the accessibility of the venue, the provision of barrier-free access, the accommodation and the availability of suitable facilities. The Administration aimed to have at least 90% of the polling stations set up at venues that were barrier-free in the 2011 DC Election. Upon receipt of the poll card, an elector with disabilities could apply for re-allocation to a special polling station five days before the polling day if the elector was allocated to a polling station not accessible to him/her. The Administration could arrange rehabilitation buses for electors with disabilities to go to the polling station if necessary.

13. In the 2011 DC Election, some electors were allocated to a polling station which was within the respective constituency but not the one closest to the electors' registered addresses. Some members considered that REO should ensure accuracy of information to avoid recurrence of similar incidents. REO advised that subsequent investigation revealed that such misallocation of polling stations was mainly due to the inputting of incorrect data into the computer system and the failure to spot the errors during the subsequent accuracy checks by staff concerned. Steps had been taken by REO to strengthen the internal control procedures.

Polling staff

14. To ensure that elections were conducted in a fair and just manner, some members suggested that civil servants should not be arranged to service the polling stations of the same district where they worked. The Administration explained that there might be practical difficulty in making such an arrangement due to the large number of staff (about 15 600 civil servants) required to work at 560 polling stations in the 2011 DC Election. To address the issue of possible conflict of interest, REO would request polling staff to declare whether he or she had any close connection with the candidates in the constituency concerned. Some members also suggested that in case an elector (e.g. one with visual impairment) needed the assistance of polling staff in marking the ballot paper when voting in a polling station, this should be done in the presence of a witness. The Administration explained that under the existing law, the Presiding Officer could mark a ballot paper for an elector who was unable to read or was incapacitated from voting due to blindness or other physical cause in the presence of a polling officer. There was no provision which allowed accompanying persons to enter a polling station. Members may wish to note that two referral memoranda on improving voting arrangements for electors with visual impairment from the Public Complaints Office were circulated to members on 9 April and 29 April 2015 respectively [LC Paper Nos. CB(2)1208/14-15(01) and CB(2)1363/14-15(01)].

15. Some members pointed out that there had been complaints about the inconsistent practices adopted by some Presiding Officers in determining the validity of ballot papers in the past elections. They enquired whether Presiding Officers were from senior ranks in the civil service and whether they had adequate experience in managing the polling/counting stations. The Administration advised that civil servants on Master Pay Scale 45 were eligible to apply to be Presiding Officers. Past experience had shown that civil servants at that rank were capable of taking up the position of Presiding Officers. REO would enhance training for Presiding Officers to ensure that consistent practices in resolving election-related conflicts would be adopted among polling stations.

Electoral arrangements for electors in custody

16. Noting that the 2011 DC Election was the first DC ordinary election in which dedicated polling stations ("DPSs") were set up for registered electors who were serving prison sentences to vote, some members enquired about the number of electors who had voted in DPSs on the polling day and whether there was room for improvements in the arrangements. The Administration advised that the cause of concern was the procedure in relation to sorting of ballot papers cast at DPSs before they were delivered to the respective main counting stations for counting. The process was generally smooth and a total of 735 prisoners out of about 2 000 prisoners under the custody of penal institutions had cast their votes in the election.

Vote counting arrangements

17. Some members considered that the time taken to convert a polling station into a counting station was too long and urged the Administration to streamline the work procedures so that the election results could be announced earlier. The Administration advised that REO had endeavored to compress the time required for the conversion and training had been provided to polling staff with a view to expediting the conversion. However, the actual time required for converting individual polling stations into counting stations would depend on the circumstances and physical constraints.

Recent development

18. The Administration will brief the CA Panel on the practical arrangements for the 2015 District Council Election at the next meeting on 18 May 2015.

Relevant papers

19. A list of the relevant papers available on the LegCo website (<http://www.legco.gov.hk>) is in **Appendix II**.

Recommendations in the Electoral Affairs Commission Report on the 2011 District Council Election

1. Dedicated Polling Stations and Ballot Paper Sorting Stations

The Registration and Electoral Office (“REO”) put in place necessary arrangements to ensure that the smooth operation of the dedicated polling stations and ballot paper sorting stations (“BPSSs”) as well as the correct and efficient delivery of the ballot papers from the BPSSs to a large number of counting stations. The Electoral Affairs Commission (“EAC”) considers that the arrangements put in place were appropriate and should continue to be adopted in future District Council ordinary elections (paragraphs 13.2 – 13.4 of the Report).

2. Measures to Facilitate Electors with Disabilities and Ethnic Minorities Electors to Vote

The REO had secured 425 (94%) ordinary polling stations, out of the total 452, which were accessible to electors with disabilities and adopted a number of accommodation measures to facilitate people with disabilities and ethnic minorities to vote in the election. The EAC recommends that the REO should continue its efforts and work closely with the Equal Opportunities Commission with a view to identifying more barrier-free venues for setting up polling stations and exploring further accommodation measures in future elections (paragraphs 13.5 – 13.10 of the Report).

3. Allocation of Some Electors to Incorrect Polling Stations

Some registered electors of four constituencies (about 20 000) had been allocated to an incorrect polling station which was within the respective constituencies but not the one close to the electors’ registered addresses. After the occurrence of the incident, the REO had taken prompt and appropriate remedial actions. As a result, the poll in the polling stations concerned was conducted smoothly and no hiccups relating to the voting of the electors concerned were reported. The EAC recommends that the REO should critically review the existing mechanism for allocation of polling stations to electors with a view to ensuring accuracy and thoroughness (paragraphs 13.11 – 13.13 of the Report).

4. Reduction of Paper Consumption on Election-related Materials

The REO should continue to explore further possible measures to reduce paper consumption in future elections. The EAC recommends that in order to reduce the number of hard copy election advertisements (“EAs”) sent to electors, candidates should be provided with a choice between “individual” and “household” address labels when using free postage to mail EAs to electors. Continuous efforts should also be made to solicit email addresses from the electors which will facilitate the sending of EAs by electronic means to more electors (paragraphs 13.14 – 13.15 of the Report).

5. Use of Electors’ Email Addresses by Candidates

On the complaints about the inadvertent disclosure of electors’ email addresses to other recipients by candidates when sending EAs to electors by email, the EAC considers it necessary to remind candidates and their agents in the candidates’ briefing sessions on the proper use of electors’ email addresses including the need to put the electors’ email addresses in the b.c.c. field when sending out their EAs by email. Furthermore, a more eye-catching reminder should be included in the “User Guide of Candidate Mailing Label System” (paragraphs 13.16 – 13.18 of the Report).

6. Canvassing by Telephone and Short Message Service

In view of the complaints received about the nuisance caused by canvassing telephone calls/short message service and possible abuse of personal data of electors for electioneering purpose, the EAC considers it necessary to give candidates and their supporters a stronger reminder in the Guidelines and in the candidates’ briefing sessions for future elections on the need to strictly follow the guidance notes on personal data privacy in respect of electioneering activities issued by the Office of the Privacy Commissioner for Personal Data (paragraphs 13.19 – 13.23 of the Report).

**Relevant documents on practical arrangements
for the 2015 District Council Election**

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	21.2.2011 (Item III)	Agenda Minutes
	18.3.2011 (Item IV)	Agenda Minutes
	20.6.2011 (Item IV)	Agenda Minutes
	19.3.2012 (Item V)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
14 May 2015