

**立法會**  
**Legislative Council**

Ref : CB2/PL/CA

LC Paper No. CB(2)1666/15-16  
(These minutes have been seen  
by the Administration)

**Panel on Constitutional Affairs**

**Minutes of meeting**  
**held on Monday, 21 March 2016, at 2:30 pm**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Starry LEE Wai-king, JP  
Dr Hon LAM Tai-fai, SBS, JP  
Hon CHAN Hak-kan, JP  
Hon CHAN Kin-por, BBS, JP  
Hon WONG Kwok-kin, SBS  
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon WONG Yuk-man  
Hon Claudia MO  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Han-pan, JP  
Dr Hon Kenneth CHAN Ka-lok  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kong, SBS, JP  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG Ngok-kiu

**Members absent** : Hon CHAN Kam-lam, SBS, JP  
Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon IP Kwok-him, GBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon James TIEN Pei-chun, GBS, JP  
Hon CHAN Chi-chuen  
Hon CHAN Yuen-han, SBS, JP  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon Tony TSE Wai-chuen, BBS

**Public Officers attending** : Item III

Mr Ronald CHAN Ngok-pang, JP  
Under Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai, JP  
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 Ronald CHAN Ngok-pang, JP  
Under Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai, JP  
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  
Senior Assistant Legal Adviser 3
- Miss Cindy HO  
Senior Council Secretary (2) 3
- Mrs Fanny TSANG  
Legislative Assistant (2) 3

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**I. Information paper(s) issued since the last meeting**

[LC Paper Nos. CB(2)1002/15-16(01), CB(2)1069/15-16(01) and (02)]

Members noted that the following papers had been issued after the last meeting:

- (a) letter dated 2 March 2016 from the Secretary for Constitutional and Mainland Affairs on "Date for the General Election for the Sixth Legislative Council ("LegCo)"; and
- (b) letters dated 2 March 2016 and 7 March 2016 from Dr Kenneth CHAN and Mr Alvin YEUNG respectively concerning the incident of the loss of key to one of the ballot boxes in a counting station in Ma On Shan in the 2016 LegCo New Territories East ("NTE") Geographical Constituency ("GC") By-election.

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

[LC Paper Nos. CB(2)1085/15-16(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 18 April 2016 at 2:30 pm:

- (a) practical arrangements for the 2016 LegCo General Election; and
- (b) publicity for the 2016 LegCo General Election.

3. Ms Emily LAU enquired when the new Chairperson of the Equal Opportunities Commission ("EOC") would brief the Panel on his work. She said that some human rights organizations might also wish to exchange views

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with the new Chairperson of EOC. The Chairman said he noted that the EOC Chairperson would brief the Panel on his work in May or June. The Under Secretary for Constitutional and Mainland Affairs ("USCMA") said that he would convey Ms LAU's suggestion to EOC.

**III. Electoral Affairs Commission ("EAC") Report on the 2015 District Council ("DC") Ordinary Election**

[LC Paper Nos. CB(2)1081/15-16, CB(2)1085/15-16(03) and (04)]

4. At the invitation of the Chairman, 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)1085/15-16(03)].

Discussion

*Polling stations*

5. Ms Emily LAU considered that the Administration should explore how to acquire more accessible venues for setting up polling stations to facilitate electors. She believed that the voter turnout rate would be boosted if the polling stations were more conveniently located.

6. CEO explained the considerations and difficulties in identifying venues for use as polling stations. As most of the venues were privately owned premises, it was necessary to obtain the consent of the owners or management bodies of venues to make available their premises for such use. In the 2015 DC election, REO managed to secure 495 venues to be designated as polling stations and most of them were set up in private premises including schools. In order to secure suitable venues in time, REO had started to identify venues and conduct site inspections as early as in late 2014. The EAC Chairman had personally sent a letter to the management of some major school sponsoring bodies in early March 2015 to appeal to them to make available their school premises for use as polling stations. Notwithstanding that, a number of them had responded that their school premises were unavailable for use as polling stations. CEO undertook that REO would make sustained efforts in identifying suitable venues as polling stations and in liaising with the owners/management of venues concerned as early as practicable, which also included conducting visits to the school management to appeal for their support. In response to Mr Christopher CHEUNG's enquiry, CEO said that after each poll, arrangements would be made as soon as possible to clean up the venues used for setting up polling stations.

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7. Mr WONG Kwok-hing said that the locations of two polling stations set up in King Yee constituency and Siu Sai Wan constituency of Eastern District were too close and caused confusion to electors concerned. CEO said that as DC constituencies were of relatively small size, the locations of polling stations of adjacent constituencies could be quite close. He said that suitable signages were erected on the polling day for electors' information and the Presiding Officers ("PROs") of the polling stations concerned also provided assistance to electors to check the correct polling stations allocated to them where necessary.

*Vote counting*

8. Ms Emily LAU expressed concern that the time taken to complete the counting of votes was unduly long. She said that in Taiwan, results of public elections were available in about one hour after the end of the elections. Ms Starry LEE also called on the Administration to enhance the application of technology in the electoral process with a view to shortening the time required for counting and verification of results. CEO said that in the 2015 DC election, the counting procedure was completed in four and a half hours in most counting stations, which was comparable to the four hours required in 2011 taking into account the higher voter turnout rate this time. He explained that in Taiwan, more polling stations were set up than in Hong Kong, and each of their polling stations serviced a much smaller number of electors. Mr Paul TSE suggested using vote counting machines that were widely used by owners' corporations for the counting of over a thousand of votes. CEO responded that there would be technical constraints in using the machine as the sizes of the ballot papers for different elections varied according to the number of contesting candidates. Besides, there were practical difficulties for setting up the hardware at polling stations due to the limited preparatory time available. Nevertheless, REO would continue to explore feasible measures to improve the vote counting arrangements.

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9. Ms Starry LEE expressed concern about the delay in the vote counting work at several counting stations in the 2016 LegCo NTE GC By-election and the loss of the key to a ballot box in one of the counting stations. CEO advised that EAC would conduct a thorough review and submit a report to the Chief Executive within three months after the by-election as required by the law. He explained that as the EAC Chairman had pointed out, there was no evidence that the concerned ballot box had been tampered with. PRO had also sought legal advice before making the decision to break the padlock in order to take out the ballot papers for counting. REO would review the procedures in handling such cases.

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*Issues relating to election advertisements ("EAs")*

10. Ms Claudia MO enquired about the incident involving amendment to the contents of the "Introduction to Candidates" as set out in the Annex to the Administration's paper. She expressed concern that there was political censorship in the incident.

11. CEO advised that as stated in paragraph 3.59 of the Guidelines on Election-related Activities in respect of the DC Election issued by EAC, the content of an "Introduction to Candidates" would not be subject to alteration or editing by REO unless it was considered to be indecent, defamatory, unlawful, or contain information not relating to the promotion of candidature of the candidate concerned. CEO explained that it was based on the legal advice from the Department of Justice ("DoJ") that the phrase "香港建國" in the relevant "Introduction to Candidates" was considered fundamentally inconsistent with the Basic Law ("BL"), specifically BL 1. CEO also requested members to note that as required by the District Council Ordinance (Cap. 547), all candidates must declare in the nomination form that he/she would uphold BL and pledge allegiance to the Hong Kong Special Administrative Region. The concerned phrase would most probably amount to an indication that the candidate was to act against BL and the content of the declaration.

12. Ms Claudia MO enquired whether candidates would be allowed to include in their EAs phrases such as "Hong Kong people ruling Hong Kong" or "self-determination by Hong Kong people". CEO advised that the phrases had to be considered in context and hence he would not comment. Dr Kenneth CHAN opined that candidates should have the freedom to decide on their own election platforms. He expressed grave concern that the freedom of speech was being undermined by political censorship. CEO stressed that neither EAC nor REO had any political consideration in handling the case. He advised that REO was responsible for publishing and distributing the "Introduction to Candidates". As a government department, REO had the responsibility to ensure that the contents of its publications were lawful.

13. Mr Alvin YEUNG said that without any objective criteria explained by REO for screening the EA specimens submitted by candidates, candidates were uncertain whether their EA specimens would eventually be accepted for the free postage facility. As such, he considered that in future, timely advice on the contents should be provided by REO to the candidates concerned so as to allow

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Admin sufficient time for revising the contents, where necessary, before the deadline. Mr Paul TSE echoed Mr YEUNG's view and concern. CEO undertook to discuss with DoJ on how to improve the relevant arrangements.

Admin 14. Mr Paul TSE said that the demand notes for payment of penalty issued by the authority in respect of the removal of unauthorized EAs displayed sometimes did not reach the candidates in time for them to include such costs in their election returns. He called on the Administration to look into the matter. CEO advised that the Food and Environmental Hygiene Department ("FEHD") was responsible for removal of such EAs and he would convey members' view to FEHD for consideration.

*Complaints relating to voter registration ("VR")*

Admin 15. At the request of Ms Emily LAU, CEO agreed to provide the number of complaints received by EAC in respect of the 2015 DC election involving complainants not being able to cast their votes on the polling day.

*(Post-meeting note: The supplementary information provided by REO was circulated to members vide LC Paper No. CB(2)1498/15-16(01) on 13 May 2016.)*

16. Ms Starry LEE enquired about the progress of investigation of suspicious cases involving the submission of fraudulent reports on change of personal particulars of some electors that were discovered after the publication of provisional register in the 2015 VR cycle. CEO said that the investigation by the law enforcement agencies was still underway and he did not have any updated information at present to report. In reply to Ms LEE, CEO advised that no suspected vote-rigging case had been found substantiated so far.

Admin 17. Mr LEE Cheuk-yan expressed concern about media reports that 41 electors with previous registered addresses at Shek Lei Estate changed in 2015 to private housing addresses in Tai Pak Tin constituency but that the new addresses were suspected not to be their principal residences. CEO advised that any suspected fraudulent cases, if detected, had been referred to the Police for investigation. Separately, REO had followed up on each of those cases to verify the registered addresses of the electors concerned. CEO agreed to provide further information in due course.

*(Post-meeting note: The supplementary information provided by REO was circulated to members vide LC Paper No. CB(2)1498/15-16(01) on 13 May 2016.)*

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18. Pointing out that tenants of public housing estates ("PHE") seldom moved homes, Mr WONG Kwok-hing queried whether it was justified for REO to conduct the full-scale data matching exercise on electors residing in PHEs. He considered that this had caused unnecessary disturbance to these electors and had inadvertently deprived some of them of their voting right. He urged REO to follow up on those electors who were residents of PHEs and had been removed from the register after the inquiry process, and to help them get re-registered in the 2016 VR cycle. CEO explained that verification of those electors' residential addresses was not conducted on a random basis, and only those whose names were not found in the tenancy records of the Housing Department ("HD") or the Hong Kong Housing Society ("HKHS") would be included in the inquiry process. He said that the purpose of the full-scale checking was to ascertain if these electors were actually residing at PHEs under HD or HKHS and, if necessary, to assist them to update their registered addresses accordingly.

19. CEO further said that during the inquiry process, 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. For electors who had not replied to REO's inquiry letters by the deadline, REO would include their names in the omissions list. REO would also send reminding letters by surface mail to these electors to remind them to make claims or reply to REO in a timely manner so as to reinstate their registration status. In response to Mr WONG's enquiry, CEO said that about 41 000 electors' registration status were removed out of 82 600 electors for whom REO had initiated the inquiry process in the 2015 VR cycle. Among the 41 000 electors, about 23 000 electors' registered addresses were situated in PHEs.

20. Ms Claudia MO suggested that under the existing objection mechanism, when an objection was made in respect of an elector, REO should first conduct home visit to verify the relevant address before requiring the elector concerned to attend a hearing.

**IV. Proposed Guidelines on Election-related Activities in respect of the LegCo Election ("Proposed Guidelines") issued by EAC**  
[LC Paper Nos. CB(2)1010/15-16, CB(2)1085/15-16(05) and (06)]

21. At the invitation of the Chairman, USCMA and CEO of REO briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1085/15-16(05)].



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Discussion

*Election forums*

22. Referring to paragraph 11.22 of the Proposed Guidelines, Miss Alice MAK requested the Administration to explain the requirement that the broadcaster should "give each candidate/list of candidates in the relevant part of the election forum equal time to present his/her/its election platform". Dr CHIANG Lai-wan expressed concern that if broadcasters gave unequal speaking time to candidates in an election forum, the "fair and equal treatment" principle would be compromised.

23. CEO said that broadcasters were all along required to adhere to the "fair and equal treatment" principle in organizing election forums. He explained that the "fair and equal treatment" principle did not require that each candidate/list of candidates be provided with exactly the same amount of speaking time in an election forum. This was to allow broadcasters greater flexibility in the design of such programmes. Broadcasters were, however, required to give each candidate/list of candidates equal time to present his/her/its election platform. In response to Miss MAK's concern that there might be unfair treatment to some candidates in terms of speaking time, CEO said that having regard to past experience, it might not be practicable to rigidly require broadcasters to give equal speaking time to each candidate in every part of an election forum as some tended to speak more while some tended to speak less in different parts of the forum. He further said that if there were complaints about unfair or unequal treatment of candidates by any broadcaster or forum organizer and if such complaints were substantiated, EAC might issue a reprimand in a public statement. Mr WONG Kwok-hing opined that broadcasters should be required to give equal time to each of the candidates taking part in an election forum for fairness. CEO undertook to relay members' views to EAC for consideration.

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*EAs and election expenses*

24. Mr WONG Yuk-man expressed grave concern about REO's refusal to accept the specimens of election mail submitted by a candidate of the 2016 LegCo NTE GC By-election for the free postage of election mail and queried the basis for REO to do so. CEO said that according to the established procedures, REO would seek legal advice on the contents of the election mail where necessary. REO had handled the case based on the legal advice

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obtained from DoJ. Mr Dennis KWOK requested REO to provide details of the relevant legal advice in writing. CEO said that legal advice provided by DoJ to government departments for internal consumption would normally not be disclosed. Nevertheless, he agreed to relay Mr KWOK's request to DoJ. Mr Alvin YEUNG considered that in future, REO should set a pledge on the timeframe for handling such cases to ensure that candidates would have sufficient time to submit a revised specimen where necessary before the relevant deadline. CEO explained that the processing time would vary depending on the contents of relevant election mails.

*(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)1498/15-16(01) on 13 May 2016.)*

25. Referring to paragraph 8.50 of the Proposed Guidelines, Mr Paul TSE enquired about the guidelines on publication of EAs through social networking websites on the Internet. CEO advised that in respect of EAs published through open platforms on the Internet where the exchanges were of an interactive and spontaneous nature, candidates would only need to post the hyperlinks of such open platforms and the information/documents relevant to the EAs onto the Central Platform maintained by REO in order to satisfy the public inspection requirement.

26. Referring to paragraph 8.4 of the Proposed Guidelines, Mr Paul TSE asked about the criteria for judging whether messages published through social networking websites on the Internet had the intention to promote or prejudice the election of a candidate/list of candidates. Mr Dennis KWOK said that it was not uncommon that web pages/chat groups might be set up by a third party to promote the election of a candidate/list of candidates. CEO advised that the requirements in paragraphs 8.3 and 8.4 were statutory requirements under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and enforced by the Independent Commission Against Corruption. He explained that if web surfers merely shared or forwarded different candidates' election campaigns through internet platforms for expression of views and did not intend to promote or prejudice the elections of any candidates, such sharing or forwarding would not normally be construed as publishing EAs. On the other hand, views and comments made for the purpose of promoting or prejudicing the election of a candidate/list of candidates would be treated as EAs. Publishing such views on an open platform such as a social networking website would be subject to relevant requirements governing EAs under the Proposed Guidelines.

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27. Mr LEE Cheuk-yan considered that the cost declaration requirement in respect of EAs displayed through electronic means or social networking platforms on the Internet was unnecessary as the cost involved was only minimal. He also expressed concern about EAs published by a third party disseminated through social networking websites without the knowledge and consent of the candidates concerned. He enquired how the expenses so incurred would be counted towards the election expenses. The Chairman pointed out that there were also occasions where such materials contained false information (e.g. incorrect candidate number). CEO reiterated that according to the existing definition of an EA, any material published for the purpose of promoting or prejudicing the election of a candidate/list of candidates would be regarded as an EA. Any expenditure incurred for such purposes would be regarded as election expenses.

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28. Mr WONG Yuk-man and Mr Paul TSE expressed concern that some newspapers had published articles to promote or prejudice the election of certain candidates in the past, but such articles had not been counted as EAs. CEO said that complaints about such matters could be lodged to the law enforcement agencies for follow up. The Chairman suggested that the Administration might consider providing guidelines in this area.

29. Dr CHIANG Lai-wan enquired whether the continued provision of district service by a candidate who was an incumbent LegCo Member during the election period would be regarded as electioneering and whether relevant costs incurred would have to be declared as election expenses. CEO said that this would have to be considered on a case-by-case basis and particular care should be exercised by such a candidate to avoid any inadvertent contravention of the relevant regulations or possible allegation that the candidate was making use of the service to promote his/her candidacy.

**V. Any other business**

30. There being no other business, the meeting ended at 4:40 pm.