

立法會
Legislative Council

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LC Paper No. CB(2)1934/15-16
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 18 April 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 CHAN Kam-lam, SBS, JP
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 Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Kin-por, BBS, JP
Hon WONG Kwok-kin, SBS
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon CHAN Chi-chuen
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 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

Hon Alvin YEUNG Ngok-kiu

**Members
absent**

: Hon LEE Cheuk-yan

Dr Hon LAU Wong-fat, GBM, GBS, JP

Hon CHAN Hak-kan, JP

Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Hon Paul TSE Wai-chun, JP

Hon MA Fung-kiwok, SBS, JP

Hon CHAN Yuen-han, SBS, JP

**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

Miss Helen CHUNG Chi-ching

Principal Assistant 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

Clerk in attendance : Miss Cindy HO
Chief Council Secretary (2) 3 (Acting)

Staff in attendance : Mr Kelvin LEE
Senior Assistant Legal Adviser 3

Miss Flora TAI
Assistant Secretary General 2

Miss Connie AU
Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

Action

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

Members noted that no information paper had been issued since the last meeting.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1274/15-16(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 16 May 2016 at 2:30 pm:

(a) Proposed Guidelines on Election-related Activities in respect of the Election Committee Subsector ("ECSS") Elections issued by the Electoral Affairs Commission ("EAC"); and

(b) practical arrangements for the 2016 ECSS elections.

3. Ms Emily LAU enquired whether the Panel would be consulted on the electoral arrangements for the Chief Executive ("CE") election before the end of the current legislative session. The Deputy Secretary for Constitutional and Mainland Affairs said that the Panel would be consulted on the Proposed Guidelines on Election-related Activities in respect of the CE Election within the current legislative session.

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III. Practical arrangements for the 2016 Legislative Council ("LegCo") general election

[LC Paper Nos. CB(2)1274/15-16(03) and (04)]

4. 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)1274/15-16(03)].

Discussion

Polling and counting arrangements

5. Noting that the Central Counting Station for the 2016 LegCo election would be set up at the Asia World-Expo ("AWE") in Chek Lap Kok, Ms Emily LAU expressed concern about the remote location of AWE and the transport arrangement. CEO said that similar concerns had been raised by the Panel before the 2012 LegCo election. REO had conducted a review after the election and noted that there had not been difficulties for electoral staff and members of the public in travelling to and from the Central Counting Station at AWE. Arrangements made with AWE on the opening of catering outlets during the count were also satisfactory. In response to Mr Christopher CHEUNG's enquiry, CEO said that REO planned to set up about 580 ordinary polling stations for the 2016 LegCo election.

6. Mr CHUNG Kwok-pan said that the existing manual counting arrangement did not keep pace with the development of modern technology, and queried the cost-effectiveness of engaging about 25 000 civil servants on the polling day for counting of one million votes or so. He said that in Taiwan, results of public elections which involved the counting of tens of millions of votes were available within only a few hours after the close of the poll. CEO explained that vote counting machines were not suitable for the counting of votes for geographical constituency ("GC") and functional constituency elections because of constraints posed by the design and size of the ballot papers. Mr CHUNG suggested that REO might consider using smaller ballot papers so that they could be fed into and read by a vote counting machine.

7. Mr NG Leung-sing said that REO should ensure that no electors would leave the polling station with any ballot paper. CEO advised that as part of the established practice, there would be dedicated ballot boxes for collecting

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different types of ballot papers separately. There would be four dedicated cardboards of different colours for holding different types of ballot papers. Such arrangements were to facilitate polling staff to monitor the casting of votes and ensure that no elector would leave the polling station with any ballot paper.

Admin 8. Mr IP Kwok-him and Dr CHIANG Lai-wan were of the view that the current polling hours which lasted for 15 hours (from 7:30 am to 10:30 pm) were too long. They enquired whether the Administration would consider shortening the polling hours by advancing the end time of the poll. CEO responded that the Panel had also discussed this matter before. He explained that any change to the polling hours would need to be considered carefully. He agreed that there was room for considering the suggestion in future review exercises.

Election advertisements ("EAs") and free postage facility

9. Noting that the specimens of election mail submitted by a candidate of the 2016 LegCo New Territories East ("NTE") GC By-election were not accepted for the free postage facility, Mr Martin LIAO enquired about the relevant considerations in the incident. CEO explained that it was based on the legal advice from the Department of Justice ("DoJ") that the contents of the materials submitted by the candidate were considered fundamentally in breach of the Basic Law ("BL"). CEO also requested members to note that as required by section 40 of the Legislative Council Ordinance (Cap. 542), all candidates must declare in the nomination form that he/she would uphold BL and pledge allegiance to the Hong Kong Special Administrative Region, and the candidate concerned had already made the required statutory declaration in the nomination form. The contents in question would most probably amount to an indication that the candidate was to act against BL and the content of the declaration. Mr LIAO suggested that REO might provide guidelines for reference by candidates in future. CEO advised that each case had to be considered on its own merits and in the light of legal advice on the particular case. Hence, it would be difficult to provide guidelines.

10. Mr Alvin YEUNG queried whether the Post Office was in a position to vet and approve the specimens of election mail submitted by candidates for free postage. Mr CHAN Chi-chuen considered that there was political censorship in the incident. He and Ms Claudia MO asked whether candidates would be allowed to include in their EAs (e.g. roadside banners/posters) phrases such as "amending the provisions of BL" and "self-determination" and if not, REO should provide a list of this kind of phrases which would not be accepted by REO for candidates' reference. CEO said that relevant phrases had to be considered

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in context and where necessary, REO would seek legal advice from DoJ. 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. Mr Christopher CHEUNG agreed that REO should guard against the abused use of free postage facility to promote the independence of Hong Kong. Mr LEUNG Kwok-hung, however, considered that to impose restrictions on the expression of political opinions by candidates was an infringement of the candidates' rights.

Admin 11. Mr IP Kwok-him said that the Post Office did not give any allowance to candidates even though there was only slight deviation from the specified size, which was caused by the folding of the publicity materials. CEO explained that the size specifications were stipulated in the electoral legislation and set out in the guidelines on election-related activities and, in this regard, the frontline staff of the Post Office were obliged to enforce the statutory provisions strictly to ensure fairness even though the deviation from the size limits might only be marginal. CEO added that REO would remind candidates of the statutory requirements in future. Ms Cyd HO enquired about the timetable of the posting arrangements to be observed by LegCo candidates. CEO said that REO would work out the timetable with the Post Office and publicize the relevant arrangements for candidates' information.

12. Mr Martin LIAO said he noted that the address labels and mailing database CD-ROM previously provided by REO had contained inaccurate information. CEO explained that in most cases, the inaccurate information was due to the fact that electors who had moved home had not updated their residential addresses with REO. To encourage candidates to send EAs to electors by more environmental-friendly means instead of by post, Ms Claudia MO requested the Administration to consider rebating the candidate concerned if he/she chose not to utilize the free postage facility. CEO undertook to explore feasible measures to economize on the use of paper in future reviews.

Facilitation measures for electors with special needs

13. Dr Kenneth CHAN enquired whether the Administration would meet with relevant stakeholders to review the facilitation measures for electors with special needs. CEO advised that through collaborating with the Equal Opportunities Commission and the Hong Kong Council of Social Service, REO would strengthen its training for polling staff on the proper ways to assist electors with special needs. Furthermore, REO would meet with representatives of persons

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with disabilities to listen to their views and observations on such facilitation measures so as to enable REO to make better arrangements, where necessary. CEO explained that through the REO telephone hotline service, the Centre for Harmony and Enhancement of Ethnic Minority Residents would be engaged to provide the interpretation service over the phone to ethnic minority electors. In response to Mr IP Kwok-him's suggestion of providing explanatory notes in the polling stations in simplified Chinese characters as well, CEO said that REO would keep in view the need to do so in future elections.

Election-related complaints

14. Ms Emily LAU asked whether sufficient measures were taken to prevent electors living in elderly institutions from being taken by persons other than their relatives to the polling stations to cast their votes. CEO said that in the 2016 voter registration ("VR") cycle, REO had issued guidelines to operators of elderly homes through the Social Welfare Department to remind them that under the Personal Data (Privacy) Ordinance (Cap. 486), unless with the express consent voluntarily given by the data subjects, personal data should only be used for the purposes for which they were collected or a directly related purpose; and remind the operators to take note of the guidelines on election-related activities issued by EAC. In addition, operators of elderly institutions were advised to keep a record of organizations conducting VR activities in their premises. Ms Emily LAU suggested that penalties might need to be introduced for non-compliance with the above guidelines concerning elderly homes. At the request of Ms LAU, CEO agreed to provide a copy of the guidelines for members' reference.

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(Post-meeting note: The supplementary information provided by REO was circulated to members vide LC Paper No. CB(2)1513/15-16(01) on 16 May 2016.)

15. Ms Emily LAU recalled that in the 2012 LegCo election, complaints lodged against canvassing activities conducted in the vicinity of the polling stations on polling day had received no response. She requested REO to look into that. Dr CHIANG Lai-wan enquired whether REO would, as in the 2015 District Council ("DC") election, assign a dedicated team on the polling day specifically to deal with complaints from electors who discovered that they were unable to vote for being omitted from the final register. CEO advised that in line with the established practice, a hotline would be set up on the polling day to answer electors' enquiries about their VR status and related issues.

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2016 VR cycle

16. Ms Starry LEE enquired about the number of inquiry letters issued by REO in the 2016 VR cycle and suggested that REO should contact the electors concerned by various means, including mobile phone short message service ("SMS"), phone, email or fax. CEO said that REO had issued about 100 000 inquiry letters in the 2016 VR cycle, including about 47 000 letters to electors whose poll cards were undelivered in the 2015 DC election and the 2016 LegCo NTE GC By-election. For electors who had not replied to REO's inquiry letters by the deadline, REO would include their names in the omissions list ("OL"). 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 Ms LEE's enquiry, CEO said that REO would issue an SMS to electors whose names were included in OL (if the mobile phone number was provided by electors) to remind them to follow up with REO regarding the resumption of their registration status.

17. Dr Helena WONG said that some electors told her that they had received poll cards sent to electors not residing in their flats. CEO said that REO had issued letters to property management companies to solicit their assistance for the collection and return of undelivered poll cards in housing estates. Dr Helena WONG suggested that poll cards should contain a reminder message that wrongly addressed poll cards should be returned to REO.

18. Mr WONG Ting-kwong asked how applications for change of registered address would be processed. CEO said that in addition to sending written notices after completion of processing the application for change of registration particulars, REO would notify electors by SMS/email that their registration particulars had been updated.

IV. Publicity for the 2016 LegCo general election

[LC Paper Nos. CB(2)1274/15-16(05) and (06)]

19. USCMA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1274/15-16(05)].

Discussion

Publicity on VR

20. Ms Emily LAU expressed support for enhancing the checking work so as to enhance the accuracy and completeness of the VR records, and enquired about

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the progress of the checking measures implemented by REO. CEO said that REO had issued about 100 000 inquiry letters during the 2016 VR cycle, including about 47 000 letters to follow up on undelivered poll cards arising from elections; about 22 000 letters to follow up on cross-matching of the registered residential addresses of electors with the Housing Department and the Hong Kong Housing Society; about 7 000 letters to follow up checks conducted on registered residential addresses with multiple electors or multiple surnames of electors; about 23 000 letters to follow up on random sample checks conducted; about 1 700 letters to follow up on checks conducted on addresses with incomplete information or suspected non-residential addresses; and about 900 letters to follow up on checks conducted on addresses situated at buildings already demolished or to be demolished. In response to Ms Emily LAU's enquiry, CEO said that the random sample checks were intended to cover 3% of existing electors.

21. Ms Emily LAU urged that REO should strengthen publicity to remind the electors under checking to update or confirm their registered residential addresses with REO before the deadline. Ms LAU suggested that the envelopes of REO's inquiry letters should contain a prominent message to prompt electors to take action. The Chairman considered that REO had to be cautious to avoid causing unnecessary disturbance to these electors. USCMA informed members that all envelopes of REO's letters were stamped with a prominent reminder message, and it would be complemented by other publicity measures such as Announcements in the Public Interests ("APIs") on television/radio.

22. Mr IP Kwok-him considered that a higher penalty should be imposed for VR-related offences to enhance the deterrent effect as vote-rigging was a criminal offence. USCMA responded that the Consultation Report on Enhancement of VR System was released in January 2016. In the light of the outcome of the consultation, the Administration would carefully consider the appropriate level of penalties and put forward specific legislative proposals in due course.

Voter turnout publicity

23. Mr IP Kwok-him pointed out that a budget of \$33 million was set aside for the publicity programme of the 2016 LegCo election which was the same as that for the 2012 LegCo election. USCMA said that unlike the 2012 LegCo election where extra publicity was launched to educate voters about the newly introduced "one-person-two-votes" arrangement, there was not a need to do so again in the 2016 LegCo election. The Administration considered that the proposed budget for 2016 would suffice for implementing the publicity activities set out in paragraph 8 of the Administration's paper.

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24. Mr IP Kwok-him considered that the voter turnout publicity should commence earlier so that it could help raise public awareness of VR. USCMA explained that the 2016 VR campaign had already begun in early March 2016, and this intensive campaign would come in different phases. Subsequent to the statutory deadline for VR and the publication of the provisional registers of electors, publicity would be made to appeal to electors on OL to respond to REO's reminding letters as soon as possible so as to reinstate their registration status. After that, emphasis would be put on publicizing the nomination period of the election starting from early July 2016.

25. In response to Mr James TIEN's question on the efforts to boost voter turnout on the election day, USCMA said that publicity efforts would be made vigorously to increase voter turnout and encourage voting through various channels, including APIs on television/radio and online, advertisements, posters, etc. He said that while the Administration would continue to explore feasible measures to boost voter turnout, many factors would affect voter turnout rate, including the competitiveness of elections, and the canvassing activities conducted by candidates. He noted that the voter turnout rates ranged from 45% to 55% in the past GC elections. CEO added that about 580 polling stations would be assigned in the 2016 LegCo election which was a record high figure. REO would make sustained efforts in identifying suitable venues as polling stations to facilitate electors to cast their votes.

Publicity on clean elections

26. Dr Helena WONG enquired about the publicity measures to prevent corrupt and illegal conduct in elections. She quoted a case where a DC candidate attended a DC-sponsored trip organized by a community organization during the election period which might be regarded as an electioneering activity. She pointed out that it was not appropriate to carry out DC-funded activities with the participation of candidates during the election period.

27. USCMA said that the Independent Commission Against Corruption would organize publicity programme to promote clean elections. Briefings would also be organized for candidates, their electioneering teams and political parties/organizations on the major provisions of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). The Administration would consider Dr WONG's views when designing publicity programme to promote clean elections.

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V. Any other business

28. There being no other business, the meeting ended at 4:38 pm.

Council Business Division 2
Legislative Council Secretariat
25 July 2016