

Legislative Council Panel on Constitutional Affairs

**Electoral Affairs Commission Report on
the 2015 District Council Ordinary Election**

INTRODUCTION

This paper informs Members of the major review findings and recommendations in the Electoral Affairs Commission (“EAC”) Report on the 2015 District Council Ordinary Election (“the Report”).

BACKGROUND

(A) The Report

2. The 2015 District Council (“DC”) Ordinary Election was held on 22 November 2015. Section 8 of the Electoral Affairs Commission Ordinance (Cap. 541) (“the Ordinance”) requires, inter alia, that the EAC shall make a report to the Chief Executive (“CE”), within three months of the conclusion of an election, on matters relating to that election in respect of which the Commission has any function under the Ordinance or any other Ordinance. Accordingly, the EAC submitted the Report to the CE on 22 February 2016.

3. The Report describes how the EAC conducted and supervised the 2015 DC Ordinary Election at various stages and sets out a detailed account of the preparatory work and the electoral arrangements. In the light of the experience gained from the election, it also puts forth the EAC’s recommendations for improvement in future elections.

4. The Government agrees with the EAC’s recommendation that the Report should be made public. The Report is available at the Public Enquiry Service Centres of District Offices and can be downloaded from the website of the EAC (www.eac.gov.hk). We have also distributed copies of the Report to all Legislative Council Members for reference.

(B) Major Review Findings and Recommendations

5. On the whole, the EAC considers that the 2015 DC Ordinary Election has been conducted in an open, fair and honest manner and is generally satisfied with the electoral arrangements. A number of areas requiring improvements have been identified with recommendations proposed. In addition, the Report has identified some good practices and

suggested their continued implementation, in Chapter 13 of the Report. Some major observations and recommendations are highlighted in paragraphs 6 to 18 below. All the recommendations in the Report are set out in **Annex**.

(a) Difficulties in Identifying Suitable Venues as Polling Stations

6. In the 2015 DC Ordinary Election, the Registration and Electoral Office (“REO”) set up a total of 495 ordinary polling stations across the territory for electors to cast their votes. Certain difficulties were encountered in the course of identifying and acquiring venues for use as polling stations.

7. As school premises are usually conveniently located and more spacious, more than half of the polling stations were set up in schools in past elections. In order to secure suitable venues in time, the REO started to identify venues and conduct site inspections as early as in late 2014. To tie in with the process, the EAC Chairman 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. However, for various reasons, quite a number of schools had replied that their premises would not be available for use as polling stations. As a result, due to very limited choices, some of the polling stations were eventually set up in venues where the location was relatively further away from electors or could not facilitate electors with mobility difficulties.

8. The EAC understands that the REO has made its best efforts to identify suitable venues for use as polling stations and considers that, despite the difficulties encountered, it should continue its efforts in future elections. At the same time, the EAC will continue to appeal to all schools, school sponsoring bodies as well as other public bodies and local organisations to provide active assistance to the REO and make available their venues for use as polling stations in elections when necessary (paragraph 13.5 of the Report).

(b) Stepping up of Removal Action against Offending Election Advertisements

9. As the number of offending election advertisements (“EAs”) displayed by the candidates in various districts would usually increase as it gets nearer to the polling day, the Home Affairs Department has worked in close collaboration with the Food and Environmental Hygiene Department to step up the enforcement action against unauthorised EAs and strengthen the manpower of the clearance teams.

10. The EAC is pleased to note that the successful collaboration of the two departments has enabled the removal action to proceed effectively. The EAC suggests that, where circumstances permit, similar arrangement be adopted in future elections. The EAC will also continue to remind candidates that EAs should only be displayed with authorisation of the relevant authorities (paragraph 13.11 of the Report).

(c) Correction on Designation of Constituency for Some Electors

11. For the 2015 DC Ordinary Election, during the period between the publication of the 2015 Final Register (“FR”) and the polling day, the Electoral Registration Officer (“ERO”) made corrections to the registration particulars of 170 electors involving 185 constituencies by invoking the power under section 32(3) of the Legislative Council Ordinance (Cap. 542) which allows the ERO to rectify any clerical or printing error or any incorrect name, address or other personal particulars of an elector in the register.

12. According to the REO’s report, after following up on enquiries from electors before the election and on registration notices that were undelivered and returned to the REO, the REO found that the registration records of some electors in the FR were erroneous due to the mistakes made by its staff in processing the relevant applications, resulting in errors and omissions in the records. In addition, the REO received enquiries from individual electors alleging that their registered addresses had been amended without their knowledge as there were apparently impersonators who had lodged fraudulent applications for change of their registered addresses with the REO. As a result, the electors concerned were assigned to an incorrect constituency. In view of the above, the ERO exercised the above-mentioned statutory power to correct the registration records of the electors concerned contained in the 2015 FR, and referred all cases of alleged inauthentic change of registered address to the law enforcement agencies for criminal investigation after seeking advice from the Department of Justice.

13. The EAC understands that the ERO has acted according to the actual circumstances and has exercised his power appropriately under the relevant electoral legislation in rectifying the erroneous information in the voter registers in order to safeguard the voting rights of the electors concerned. Nonetheless, the EAC is of the view that the incident reflects inadequacies in the REO’s handling of voter registration applications and its compilation of the FR. The REO should review the existing data entry work in the processing of applications, introduce improvement measures and enhance its cross-checking of address information with other

government departments to ensure the correctness of the information. In addition, the REO should further promote the Online Voter Information Enquiry System which has been launched since 2014 so that electors can notify the REO in time for correction of any discrepancies found during their inspection of their registration particulars. In the long run, it would be appropriate to consider if a set of more comprehensive and transparent procedures for rectifying erroneous registration particulars in the FR should be formulated (paragraphs 13.31 and 13.32 of the Report).

(d) Facilitating Measures for Electors with Mobility Difficulties and Special Needs to Vote

14. In the 2015 DC Ordinary Election, the REO set up 495 ordinary polling stations of which 466 (94%) were accessible to electors with mobility difficulties. The percentage reached an all-time high. Where circumstances permitted, the REO would set up temporary ramps at the entrance of the polling stations to facilitate electors with mobility difficulties. Nonetheless, there were still occasions on which the REO was unable to identify venues suitable for use as polling stations for electors with mobility difficulties. In these circumstances, the REO would inform and remind electors with mobility difficulties or those using wheelchair, through the location maps of polling stations sent out with the poll cards to electors and various promotion channels, that if they found it difficult to access the allocated polling station, they could apply to the REO at least five days before the polling day for re-allocation to a special polling station set up in an accessible venue.

15. Apart from the above, the REO also implemented a number of new measures to facilitate those with special needs to vote, including the launching of a dedicated telephone hotline for electors with visual impairment through which operators would read out to them the information on the Introduction to Candidates and other electoral information, appealing to electors with visual impairment to provide their email addresses so that the REO could send electoral information to them through email for reading with computers and supporting devices, allowing electors with visual impairment to bring along their guide dogs into the polling stations, etc. Furthermore, sign language interpretation was included in all APIs broadcast on television to assist electors with hearing impairment to understand the information on the election and voting. To facilitate ethnic minority electors to vote, procedural information about the election presented in seven ethnic minority languages (i.e. Bahasa Indonesia, Nepali, Thai, Hindi, Tagalog, Urdu and Punjabi) was provided in the dedicated website for the 2015 DC Ordinary Election and at the polling stations.

16. The EAC appreciates the efforts made by the REO in implementing further facilitating measures to assist electors with mobility difficulties and special needs to vote. The REO should continue to work closely with the Equal Opportunities Commission with a view to identifying more accessible venues for use as polling stations for electors with mobility difficulties in future elections and implementing further measures to facilitate electors with mobility difficulties and special needs to vote (paragraph 13.38 of the Report).

(e) The Count

17. The time taken for the counting and verification of results in the election was longer than expected. This is due to a delay in the counting work at several counting stations for various reasons, and the substantial increase in voter turnout (the counting procedure was completed in 4.5 hours in most counting stations, as compared to 4 hours in 2011).

18. The EAC considers that the REO should continue to explore practical measures to shorten the time for the counting of votes and verification of results so that the election results could be announced as soon as possible (paragraph 13.64 of the Report).

(C) Way Forward

19. In overall terms, the Government considers the review findings and recommendations of the Report acceptable. We will work with the EAC to pursue follow-up actions.

**Recommendations in the Electoral Affairs Commission Report
on the 2015 District Council Ordinary Election**

(A) Difficulties in Identifying Suitable Venues as Polling Stations

The Registration and Electoral Office (“REO”) had encountered certain difficulties in identifying and acquiring venues for use as polling stations in the election. The Electoral Affairs Commission (“EAC”) understands that the REO had made its best efforts and considers that the REO should continue its efforts in future elections. The EAC will continue to appeal to all schools, school sponsoring bodies as well as other public bodies and local organisations to provide active assistance to the REO and make available their venues for use as polling stations in elections when necessary.

(B) Size Specifications for Free Postage of Election Advertisements

Individual candidates and political parties commented that the size specifications imposed by the Hongkong Post for free postage of election advertisements (“EAs”) were too stringent and rigid. The EAC considers that given the size requirement of EAs for free postage is stipulated in the law, the Hongkong Post must strictly enforce the requirement and both the REO and the Hongkong Post should further remind candidates of the statutory requirements at the briefing session for candidates in future.

(C) Stepping up of Removal Action against Offending EAs

The Home Affairs Department had worked in close collaboration with the Food and Environmental Hygiene Department to step up the enforcement action against unauthorised EAs and strengthen the manpower of the clearance teams in the election. The EAC is pleased to note the arrangement and suggests that, where circumstances permit, similar arrangement be adopted in future elections.

(D) Amendment to the Contents of Introduction to Candidates

A candidate had included in his election platform for publication in the “Introduction to Candidates” a phrase which was considered fundamentally inconsistent with the Basic Law from the legal perspective. Despite REO’s request, the candidate objected to deleting the phrase in his election platform. As a result, based on the legal advice sought, the REO redacted the relevant phrase from the “Introduction to Candidates” when it was printed. The EAC considers that in dealing with similar cases in future and bearing in mind the overall interest of the election, the REO should continue to take a prudent approach, seek clear legal advice from the Department of Justice and endeavour to strike a balance between various factors of consideration.

(E) Ballot Paper Issuing Desk Too Far From Voting Compartment

When visiting a polling station, an EAC Member noted that the considerable distance between the ballot paper issuing desks and voting compartments of a polling station might cause inconvenience to electors, especially the elderly. The EAC is of the view that whilst it is important to provide sufficient space inside the polling station to ensure unobstructed and orderly movement of people during the peak hours, the REO should pay attention to this aspect and make appropriate arrangement having regard to the different circumstances of each polling station.

(F) The Two Cardboard Screens on Ballot Paper Issuing Desk being Too High

The EAC notes that the cardboard screens placed on the ballot paper issuing desk, which are intended to protect the secrecy of electors’ information in the poll register, might affect effective communication between electors and the polling staff at the ballot paper issuing desk. To strike a balance between protecting the privacy of electors and effective communication, the EAC considers that the REO should suitably reduce the height of the cardboard screens in future elections.

(G) Delay in the Opening of A Polling Station

Due to a technical failure of the electric gate at the main entrance, the start of the poll of a polling station was delayed for 10 minutes. To ensure that all polling stations were open for 15 hours for electors to vote, the EAC decided to extend the polling hours of this polling station by 10 minutes. The EAC considers that the preparatory work for setting up polling stations can be further improved. In particular, the REO should enhance its training for polling staff and remind them to inspect the access facilities of the polling station on the set-up day and prior to the opening of the station on the polling day to ensure everything is in order.

(H) Correction on Designation of Constituency for Some Electors

For the election, the Electoral Registration Officer invoked the power under section 32(3) of the Legislative Council Ordinance (Cap. 542) to rectify the erroneous voter registration particulars of 170 electors in the Final Register (“FR”) in order to safeguard the voting rights of the electors concerned. The EAC considers that the incident reflects inadequacies in the compilation of the FR. The REO should review the existing data entry work in the processing of applications, introduce improvement measures and enhance its cross-checking of address information with other government departments to ensure the correctness of the information. In addition, the REO should further promote the Online Voter Information Enquiry System which has been launched since 2014 so that electors can notify the REO in time for correction of any discrepancies. In the long run, it would be appropriate to consider if a set of more comprehensive and transparent procedures for rectifying erroneous registration particulars in the FR should be formulated.

(I) Facilitating Measures for Electors with Mobility Difficulties and Special Needs to Vote

In consultation with the Equal Opportunities Commission (“EOC”), the REO has implemented a number of facilitating measures for electors with mobility difficulties and special needs to vote. In particular, more extensive publicity was launched to inform electors

concerned of the relevant measures in the election. The EAC is of the view that the REO should continue to work closely with the EOC with a view to identifying more accessible venues for use as polling stations for electors with mobility difficulties in future elections and implementing further measures to facilitate electors with mobility difficulties and special needs to vote.

(J) Marked Ballot Paper Found Left on a Paperboard to which the Chop Bearing a “✓” was Attached

A marked ballot paper was found inside the transparent plastic pocket of a paperboard to be issued by a polling staff at the ballot paper issuing desk at a polling station. The incident might have been caused by an elector who had not put the marked ballot paper into the ballot box and had returned the paperboard together with the marked ballot paper attached to the polling staff standing next to the ballot box. The EAC considers that the REO should step up its training for polling staff in future, especially those manning the ballot box and the ballot paper issuing desk, to remind them that they must be vigilant in ensuring that every elector has put the marked ballot paper into the ballot box before leaving the polling station. Also, they should carefully check the paperboards returned by electors to make sure that there is no marked ballot paper attached.

(K) Ballot Paper Wrongly Issued by Polling Staff

Due to miscommunication between the staff of a polling station and the REO enquiry hotline, the elector who was supposed to cast vote at another polling station in a different constituency was wrongly issued a ballot paper and allowed to cast vote at the former polling station. The EAC considers that the REO should step up its training for staff manning the polling station and the enquiry hotline and remind them to verify the voter registration particulars of electors by repeating to each other the information in full so as to avoid any mistakes.

(L) Unduly Long Time Taken in Counting of Vote

At one of the polling stations, it took some six hours to finish the counting of votes. The delay arose basically from a question raised

by one of the two candidates contesting in the constituency concerned that the “✓” sign in some of the ballot papers was much thicker than as shown in other ballot papers. The candidate insisted that the ballot papers with a thicker “✓” sign be treated as questionable ballot papers despite the explanation of the Presiding Officer (“PRO”) that the “✓” sign was undoubtedly believed to have been marked by electors with the chops provided by the polling station and that the thicker sign was the result of excessive force used by electors when affixing the “✓” chop on the ballot papers. Under the electoral law, the PRO is empowered to determine whether a ballot paper is questionable and the decision of the PRO in regard to any ballot paper shall be final. If candidates are not satisfied with the decision, they can only question the election by an election petition.

The EAC considers that the REO should enhance the training on vote counting for polling staff and remind all PROs that they are empowered to determine whether a ballot paper is questionable according to the electoral regulation. Furthermore, in the light of the incident, the EAC suggests that the REO should consult legal advice and include a ballot paper with a thicker “✓” in the samples of valid and invalid ballot papers for reference by PROs, candidates and their agents so as to avoid unnecessary disputes. When placing order for new “✓” chops, the REO should also continue to set standards or specifications for aspects such as ink type, the thickness and the absorbency of ballot paper in order to control the quality of ink and enhance the efficacy and performance of the chops.

(M) Discrepancy in Voter Turnout and Actual Number of Ballot Papers Issued

The cumulative voter turnout statistics released by a polling station was 1 000 more than the actual number of ballot papers issued. Investigation revealed that the occurrence of this incident was due to mistakes committed by the polling staff in collating the voter turnout statistics and filling out the relevant statistical returns. The EAC has instructed the REO to further clarify the role and relevant responsibility of the staff involved and take necessary follow-up action. Moreover, the EAC considers that the REO should step up the training on the completion of statistical returns for polling staff

and remind them to discharge their respective duties with extra care to avoid miscalculation.

(N) PRO Leaving Polling Station without Confirming that Counting Results Were Faxed to Statistical Information Centre

The PRO of a polling station dismissed the polling staff without first confirming that the counting results were faxed to and verified by the Statistical Information Centre (“SIC”). The REO’s investigation shows that the PRO and some other polling staff concerned failed to comply strictly with the requirements of the operational manual to notify the SIC of the counting results. The EAC has instructed the REO to further clarify the responsibilities of the staff concerned and take necessary follow-up action. The REO should step up its training for polling staff in respect of the counting steps required and, in particular, remind the PROs to wait for the SIC’s verification of results before dismissing their staff.

(O) The Count

There was a delay in the counting work at several counting stations for various reasons. Nevertheless, the counting procedures were completed within 4.5 hours at most of the counting stations which was slightly longer than the 4 hours taken in 2011. The EAC considers that the REO should continue to explore practical measures to shorten the time for both the counting of votes and verification of results so that the election results can be announced as soon as possible.