

立法會

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Panel on Constitutional Affairs

Background brief prepared by the Legislative Council Secretariat for the meeting on 18 April 2016

Practical arrangements for the 2016 Legislative Council General Election

Purpose

1. This paper summarizes the past discussions held by the Panel on Constitutional Affairs ("the Panel") on the practical arrangements for the 2012 Legislative Council ("LegCo") Election and the Electoral Affairs Commission ("EAC") Report on the 2012 LegCo 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 LegCo and District Council ("DC") constituency boundaries, and to make regulations, guidelines and arrangements for the registration of electors and the conduct of public elections.

3. In accordance with section 6(1) of the Legislative Council Ordinance (Cap. 542), the Chief Executive ("CE") has specified 4 September 2016 as the date for holding the general election for the Sixth LegCo. The nomination period for the 2016 LegCo Election is scheduled for 16 to 29 July 2016.

Relevant discussions of the Panel

4. The Panel discussed the practical arrangements for the 2012 LegCo Election at its meeting on 16 April 2012. Similar issues of concern were also raised at the meeting on 17 December 2012 in which the EAC Report on the 2012 LegCo Election was discussed. The major concerns raised by members at these meetings are summarized in the following paragraphs.

Polling and counting arrangements

Improvement to vote counting arrangements

5. Some members considered that the time taken in counting votes in previous elections was unduly long. They expressed concern that with the creation of the five new DC (second) functional constituency ("FC") seats, many electors would cast two votes in the 2012 LegCo Election which would inevitably prolong the vote counting process. Members stressed the need to expedite the relevant process including the speeding up of the conversion of polling stations into counting stations. According to the Administration, to facilitate early declaration of election results, the poll-cum-count arrangement was presently adopted for the counting of votes in a geographical constituency ("GC") election of LegCo. The Administration advised that training would be provided to polling staff on the conversion of polling stations into counting stations. The staff concerned would rehearse the conversion process and would be advised to finish the process as quickly as possible.

6. After consideration of members' views, the Administration introduced legislative amendments¹ for the conduct of the 2012 LegCo Election such that the Presiding Officer ("PRO") of a main counting station ("MCS") must mix the ballot papers received from small polling stations ("SPSs") and dedicated polling stations ("DPSs") with the ballot papers in at least one of the ballot boxes at MCS polling station when counting the votes at MCS². This arrangement would enable PRO of MCS to start the vote counting process as early as practicable without waiting for the arrival of all the ballot boxes from SPSs and DPSs.

7. Members noted the Administration's proposal that the counting of votes for all FCs including the DC (second) FC would be conducted centrally at the central counting station. Some members pointed out that given the large number of ballot papers involved in GCs and DC (second) FC, the proposed counting arrangement would increase the risk of misplacement of GC ballot papers into ballot boxes for collection of DC (second) FC ballot papers (or vice versa) and would cause delay to the counting process.

8. According to the Administration, the in-situ counting of GC ballot papers at individual polling stations would commence without first ascertaining or verifying the number of misplaced GC ballot papers uncovered from the ballot

¹ The Administration proposed Committee stage amendments to the Electoral Legislation (Miscellaneous Amendments) Bill 2012 to implement the arrangement.

² The same arrangement is applicable to the ballot papers received from a ballot paper sorting station, which is set up in a DC ordinary election and a LegCo general election for the sorting of ballot papers cast in DPSs.

boxes of FC including the DC (second) FC at the central counting station. In this regard, PRO could proceed with the counting of GC ballot papers even if the number of GC ballot papers cast in the GC ballot boxes did not tally with the number of ballot papers issued for that GC. If there were any misplaced GC ballot papers found in the FC ballot boxes, they would be delivered to the Returning Officer ("RO") of the respective GC at the central counting station and the count of these misplaced GC ballot papers would be conducted at the central counting station under the supervision of RO.

Polling arrangements

9. In the discussion of the EAC report at the meeting on 17 December 2012, some members expressed concern that some electors had reflected that the polling staff were not fully familiar with the polling and voting arrangement for FC elections. For example, there were cases where registered GC electors were not given DC (second) FC ballot papers but only GC ballot papers in the 2012 LegCo Election. Besides, for the four special FCs which were subject to a different voting arrangement (i.e. the "preferential elimination system" under which an elector was to use the pen provided to mark the ballot paper), some electors were not provided with the pen to indicate their preferences and had to use the chop (which was provided solely for the GC election) to stamp a 'tick' on the FC ballot paper. As a result, this had rendered their votes invalid.

10. With regard to the above cases involving non-provision of DC (second) FC ballot papers to the electors, REO explained that it could be due to the fact that the elector concerned was already a registered elector of a traditional FC. Another possible reason was that the elector concerned had been an elector of a traditional FC but he later became ineligible for reasons such as change of membership in the specified bodies and it was too late to put him back as an elector of DC (second) FC. REO undertook to consider whether any changes should be made to the future arrangements to cater for these situations. REO advised that only a small number of such complaints had been received. The Administration advised that before the election, REO had provided necessary training to all polling staff on the ballot paper issuing procedures and particular emphasis was given to issuance of the new DC (second) FC ballot paper and the need to be careful when issuing ballot papers to electors. REO undertook to continue to enhance the training of polling staff on all major aspects of the ballot paper issuing procedures.

Allocation of polling stations

11. In reviewing the practical electoral arrangements for the 2012 LegCo Election, members in general called on the Administration to improve the arrangements for electors with disabilities to access polling stations. Noting

that only 90% of the polling stations were barrier-free, some members considered that the Administration should enhance its efforts to identify suitable alternative venues. The Administration advised that ramps would be installed at venues to improve accessibility as long as it was safe to do so. An elector with disability finding it difficult for him to access the polling station could apply to REO for re-allocation to a special polling station accessible to such electors. If circumstances permitted, REO would arrange with the Society for Rehabilitation to provide Rehabus service for these electors. Its aim was to achieve that at least 90% of the venues were barrier-free and it would try to identify alternative locations as far as practicable.

12. Some members expressed concern that some electors were assigned to a polling station different from the 2011 DC Election which was held less than a year ago. This had caused confusion to the electors concerned on the polling day, in particular electors who were elderly people. These members considered that such changes of polling stations would cause confusion to electors and should be avoided as far as possible.

13. The Administration advised that owing to the need to identify more accessible venues for setting up polling stations, some of the electors in the 2011 DC Election were unavoidably assigned new polling stations different from the ones allocated to them in previous elections and some of them were not satisfied with the arrangement because locations of the new polling stations were less convenient. The Administration explained that an elector of a particular constituency would be assigned to a polling station close to his principal residence, and a polling station for a constituency was normally situated within the boundaries of the constituency. However, as DC constituencies were much smaller than LegCo GC, the polling station assigned to an elector in a LegCo election might be different from that assigned to the elector in a DC election.

Allocation of designated display spots

14. Members noted that designated spots, mainly comprising roadside banner spots and posters spots (in A3-size) at public housing estates, were allocated to candidates/lists of candidates for displaying their election advertisements ("EAs"). The 2012 LegCo Election saw an increase in the number of candidates/lists of candidates contesting. Furthermore, with the introduction of the DC (second) FC which would return five seats from the whole territory as one single constituency, it had resulted in a greater demand for designated spots. Some members expressed concern that there were not sufficient display spots for candidates contesting in the GC elections to display election publicity materials. REO agreed to follow up in consultation with government departments concerned.

15. Some members considered that to facilitate the conduct of electioneering activities, the existing procedural requirement for obtaining permission for the display or affixing of printed EAs in private premises/shops could be simplified. The Administration advised that display of bills or posters was regulated by the Public Health and Municipal Services Ordinance (Cap. 132), which stipulated that no bill or poster could be displayed or affixed in public or private places except with written permission. The existing provisions under the electoral law served only to reflect the requirement of the Food and Environmental Hygiene Department ("FEHD") under Cap. 132 by requiring a candidate to provide RO with a copy of any such written permission obtained for the display or exhibition of an EA. REO undertook to relay the concern to FEHD for consideration.

Staffing matter

16. Some members suggested that civil servants who worked in the district should not be deployed to the same district to avoid any conflict of interests. The Administration advised that to avoid conflict of interests, civil servants whose official duties were district-sensitive would not be assigned to work as PROs in the polling stations of the same district where they worked.

17. Some members suggested that the requirement to wear name badges for identification purpose within the polling stations should be strictly enforced. The Administration advised that all civil servants were required to display prominently their name badges while inside the polling stations and agents of candidates were required to do so similarly.

Seating arrangement for the public to observe vote counting

18. Some members considered that there was room for improvement regarding the seating arrangement for the public to observe vote counting in the central counting station in Asia World Expo ("AWE"). The Administration explained that the public seating arrangement in the central counting station in AWE included a designated area with about 1 400 seats for candidates and agents, and another designated public gallery with about 1 000 seats for the public to observe the counting of FC votes and declaration of election results. REO had also set up a reserve public seating area with 700 spare seats. Regarding the allocation of seats in the public gallery, the Administration advised that admission of the public was arranged on a first-come-first-served basis to ensure fairness. REO would review the relevant arrangements in the light of members' concerns.

Electioneering on the election day

19. Some members considered that given the sheer size of no canvassing zone

("NCZ") outside the polling station, canvassing on the polling day might no longer serve a meaningful purpose. The Administration explained that outside each polling station, areas were designated by ROs as NCZ and no staying zone to provide the electors with a hindrance-free access to the station. REO would review the size of NCZ in consultation with ROs where necessary.

Related development

20. In March 2016, Dr Hon Kenneth CHAN Ka-lok and Hon Alvin YEUNG Ngok-kiu expressed concern about an incident concerning the loss of key to one of the ballot boxes in a counting station in Ma On Shan in the 2016 LegCo By-election for the New Territories East GC, and requested the Administration to improve relevant arrangements for future LegCo elections [LC Paper Nos. CB(2)1069/15-16(01) - (02)]. In his reply to a written question raised by Hon Kenneth LEUNG on "Electoral arrangements" raised at the Council meeting of 16 March 2016, the Secretary for Constitutional and Mainland Affairs ("SCMA") advised that regarding the above incident, the REO's initial investigation revealed that the ballot box concerned had all along been placed in the said polling station; a police officer had stayed in the polling station concerned all the while; and there was no sign that the ballot box had been tampered with. For the sake of prudence, the PRO had sought legal advice before making the decision to break the padlock with a tool in order to take out the ballot papers for counting. EAC would conduct a thorough review on the arrangements for the said by-election and submit a report to CE within three months after the election as required under the law.

Recent development

21. The Administration is scheduled to brief the Panel on the practical arrangements for the 2016 LegCo Election at the upcoming meeting on 18 April 2016.

Relevant papers

22. A list of relevant papers which are available on the LegCo website is in the **Appendix**.

Appendix

Relevant documents on practical arrangements for the 2016 Legislative Council General Election

Committee	Date of meeting	Paper
Panel on Constitutional Affairs ("CA Panel")	16.4.2012 (Items III and IV)	Agenda Minutes
House Committee	20.4.2012	Report of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2012
Legislative Council	17.10.2012	Official Record of Proceedings Pages 110-115 (Written question)
CA Panel	17.12.2012 (Item IV)	Agenda Minutes
Legislative Council	16.3.2016	Official Record of Proceedings Pages 150-152 (Written question)

Council Business Division 2
Legislative Council Secretariat
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