

立法會 *Legislative Council*

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Panel on Constitutional Affairs

Background brief prepared by the Legislative Council Secretariat for the meeting on 21 November 2016

Practical arrangements of the 2017 Chief Executive Election

Purpose

This paper gives a brief account of the past discussions held by the Panel on Constitutional Affairs ("the Panel") on the practical arrangements for the 2012 Chief Executive ("CE") Election and related issues for the 2017 CE Election.

Background

2. The Electoral Affairs Commission ("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 make preparations for various electoral arrangements for the CE election.

3. The 2012 CE Election was held on 25 March 2012. In June 2012, EAC published the Report on the 2012 CE Election¹ which sets out how EAC conducted and supervised the 2011 Election Committee ("EC") Subsector Elections and the 2012 CE Election. The Report on the 2012 CE Election also contains a review on the electoral procedures and arrangements in the light of the experience and measures recommended for future elections. The recommendations made by EAC on the 2012 CE Election are in **Appendix I**.

Past discussion of the Panel

4. At its meeting on 16 January 2012, the Panel discussed the practical arrangements for the 2012 CE Election. At its meeting on 20 June 2016, the Panel was briefed on the Proposed Guidelines on Election-related Activities in

¹ The Report on the 2012 CE Election was issued to all Members on 13 June 2012. It has not been discussed by the Panel.

respect of the CE Election ("the Proposed Guidelines") newly issued by EAC in June 2016. The relevant issues raised at these meetings are summarized in the following paragraphs.

Election expenses and electioneering activities

5. During discussion of the Proposed Guidelines at the meeting on 20 June 2016, some members expressed concern about whether measures were in place to prevent an incumbent CE from having an unfair advantage by using public resources for his/her electioneering campaign in seeking re-election. The Administration advised that in accordance with paragraph 16.8 of the Proposed Guidelines, a candidate should not use any public resources for his/her electioneering campaign. However, any security, transportation, secretarial services and living quarters to which the candidate was entitled for his/her private purposes by virtue of his/her post or job were not treated as public resources in this context. That said, if any such services/living quarters were inevitably used for the candidate's electioneering campaign, the relevant part of the related costs had to be accounted for as his/her election expenses. A list of common expenditure items which could be counted towards election expenses was in Appendix Q to the Proposed Guidelines, and that a CE seeking re-election had to separate the resources spent on his/her duties as CE from his/her election expenses and should include relevant particulars in his/her election return.

6. Some members asked whether a person publishing an article to express appreciation of a particular CE candidate's capability in the run-up to the 2017 CE Election would be considered to have published an election advertisement ("EA"). The Administration advised that the definition of "EA" was provided in section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), according to which any publicity materials published by any means "for the purpose of promoting or prejudicing the election of a candidate or candidates at the election" would be counted as EAs. In any particular case, the "intention to promote or prejudice the election of any candidates" had to be proven in considering whether the definition of "EA" was met.

7. Some members considered that an incumbent CE or officials under the Political Appointment System seeking re-election/election as CE should take leave or resign before declaring candidacy. The Administration advised that the Proposed Guidelines had clearly set out that a politically appointed official should ensure that, when taking part in election-related activities, great care should be taken that there was no actual or potential conflict of interest with the business of the Government or his/her own official duties. The Administration further advised that according to section 14 of the CE Election Ordinance (Cap. 569), a prescribed public officer (the definition of which included

officials under the Political Appointment System) was disqualified from being nominated as a candidate in the CE Election.

Polling arrangement

8. At the meeting on 16 January 2012, members were briefed of the polling arrangement for the 2012 CE Election and duration of the polling hours in respect of different rounds of voting to be held on the polling day. Some members enquired whether and how electors would be notified if a second round of voting was required in the election. The Administration advised that in the polling notice to be issued to electors, REO would encourage EC members to stay to observe the counting of votes at the central counting station after casting their votes. If another round of voting was required, a public announcement would be made through the electronic media. REO would also notify those electors who had provided REO with their contact telephone numbers or email addresses by Short Message Service and emails, if another round of voting was required.

9. In response to members' concern as to whether there would be sufficient time for electors to return to the polling station, the Administration advised that the polling hours, which followed those of the 2007 CE Election, were considered appropriate in the light of the experience. The Administration advised that with the increase in the number of EC members from 800 to 1 200, the number of ballot paper issuing desks would be increased from 20 to 33; and the number of voting compartments would also be increased from 40 to 60.

10. In response to members' enquiry about whether questionable ballot papers should be displayed to all electors, in addition to candidates and their election/counting agents, the Administration undertook to review the arrangement.

Allocation of designated display spots at districts

11. Some members considered that the arrangement for removal of publicity materials at districts to make way for the designated display spots to be allocated to candidates for the 2012 CE Election to display their election advertisements would cause disruption to the routine work of incumbent Legislative Council Members and District Council members. They queried whether it would be necessary to remove the publicity materials in all the display spots given that only 1 200 EC members were eligible to vote in the 2012 CE Election. The Administration was requested to consult existing users of the display spots on the relevant arrangement before they were given notification for the removal. The Administration was also requested to consider the control arrangements for prohibiting the use of unallocated

designated spots for promoting candidates in the 2012 CE Election so as to maintain fairness.

12. According to the Administration, some 2 000 to 3 000 display spots had been made available in the 2007 CE Election. The Home Affairs Department would be consulted on the locations of display spots before finalizing the arrangement in February 2012, and vacation of the designated display spots should only be required nearer the time of the election.

Recent development

13. The fifth-term CE Election will be held on 26 March 2017. The Administration will brief the Panel on the practical arrangements for the CE Election in 2017 at the next meeting on 21 November 2016.

Relevant papers

14. A list of the relevant papers available on the LegCo website is in the **Appendix II**.

Council Business Division 2
Legislative Council Secretariat
17 November 2016

**The Recommendations in the Electoral Affairs Commission Report on
the 2012 Chief Executive Election**

On the 2012 Chief Executive (“CE”) Election

1. Polling hours and advice to EC members: To continue to keep the duration of the first round of voting to two hours, to appeal to the Election Committee (“EC”) members to arrive early at the polling station, and to set up a waiting lobby outside the main polling station for early arrivals. These arrangements were conducive to the smooth conduct of the poll in the 2012 CE Election (*paragraphs 14.20 to 14.21 of the Report*).
2. Name badges with barcodes for verification : To continue to make similar arrangements of requiring EC members to display name badges printed with barcodes and colour codes, to facilitate verification and smooth access into polling station, and directing EC members to the right ballot paper issuing desks (*paragraphs 14.22 to 14.24 of the Report*).
3. Traffic control and designation of drop-off and pick-up points: To continue to adopt similar traffic control arrangements as those in the 2012 CE Election which were effective in regulating traffic and facilitating EC members’ timely arrival (*paragraphs 14.25 to 14.26 of the Report*).
4. Order in the main polling station: To continue to send appeal letters to EC members before the polling day reminding them of the need to follow the relevant rules and regulations in the main polling station, in order to ensure an orderly voting process (*paragraphs 14.27 to 14.28 of the Report*).

REVIEW AND RECOMMENDATIONS

Section 1 – A General Remark

14.1 The EAC is generally satisfied with the smooth conduct of both the 2011 ECSS Elections and the 2012 CE Election, which were organised in an open, fair and honest manner. After the completion of both elections, the EAC, following past practices, conducted a comprehensive review of all aspects of the electoral procedures and arrangements with a view to improving the conduct of future elections. The significant areas under review and the related recommendations are set out in the ensuing paragraphs.

Section 2 – Review and Recommendations

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The 2012 CE Election

Matters relating to Preparation Work

(A) Polling hours and advice to EC members

14.20 The duration of the polling hours of the first round of poll was kept at two hours from 9:00 a.m. to 11:00 a.m. having regard to the increase in the number of EC members from 800 to 1,200. Although EC members were familiar with the location of the HKCEC where the main polling station was situated, they were strongly encouraged to arrive well before 10:00 a.m. (i.e. one hour before the close of the first round of voting) to avoid possible bunching towards the end of the polling time or any delay caused by other unforeseen circumstances on the polling day. A waiting lobby was designated outside the main polling station for early arrivals and admission to the waiting lobby commenced at 8:00 a.m. on the polling day. The appeal to arrive early at the main polling station was generally well heeded by EC members and proved to be very effective as over 50% of the EC members arrived at the main polling station by around 10:00 a.m. on the polling day.

Recommendation:

14.21 The arrangements set out in paragraph 14.20 above were conducive to the smooth conduct of the poll and should continue to be adopted in future elections.

(B) Name badges with barcodes for verification

14.22 Following the practice adopted in the 2007 CE Election, a name badge and a polling notice were provided to all EC members prior to the poll. To enhance the venue security, a barcode was printed on each name badge which would be scanned before allowing an EC member to pass through the access control points in the HKCEC. Only a few EC members had not brought along their name badges to the main polling station and needed to be provided with replacement badges.

14.23 Having regard to the increase in the number of EC members, the number of ballot paper issuing desks was increased from 22 to 33, grouped into six color zones. To facilitate polling staff to usher an EC member to the right ballot paper issuing desk efficiently, the relevant color zone, in addition to the code of the ballot paper issuing desk allocated to the EC member, was also printed at the lower part of the name badge.

Recommendation:

14.24 The requirement that EC members had to display the aforesaid name badges had facilitated the verification work and ensured the smooth access of EC members to the HKCEC. Also, the measure set out in paragraph 14.23 had in particular helped a lot to expedite the process of directing EC members to the

right ballot paper issuing desks. Therefore, similar arrangements should be put in place in future elections.

(C) Traffic control and designation of drop-off and pick-up points

14.25 Having regard to the limited parking spaces available for use at the HKCEC and the busy traffic nearby, the REO had encouraged EC members to go to the main polling station by public transport. Special arrangements were also made in collaboration with the Police and the HKCEC to ensure the smooth vehicular traffic at the venue. EC members arriving at the HKCEC in private vehicles or taxis would be directed to use the designated drop-off points clearly marked on a transportation map sent to each EC member for reference before the polling day. To avoid congestion during the polling hours, EC members were advised beforehand that no vehicles would be allowed to pick up passengers at the designated drop-off points. Instead, other locations at the HKCEC were designated as pick-up points for use by private vehicles driven to pick up EC members. To facilitate vehicular traffic control near the HKCEC, a vehicle entry permit was also given to EC members so that those who preferred to come in private vehicles could display the permit on the windscreen of their vehicles for identification purpose. EC members were also requested to complete a survey form to provide the REO with information on their mode of transport to the main polling station to facilitate an early assessment of the likely traffic condition on the polling day.

Recommendation:

14.26 As the arrangements mentioned in paragraph 14.25 above had contributed substantially to the effective regulation of traffic in the vicinity of the HKCEC on the polling day and had facilitated EC members to assess how

they should plan and make their trips to the venue, the EAC considers that there is merit in putting in place similar arrangements in future elections.

(D) Order in the main polling station

14.27 In the appeal letters sent to all EC members together with the polling notice, they were reminded of the behavior which was prohibited inside the main polling station. To reinforce the message on secrecy of votes and, in particular, to remind EC members that showing ballot papers or the votes thereon to others inside the polling station would contravene the law, special emphasis was given to the prohibition by law in the aforesaid appeal letter. Specifically, EC members were reminded not to communicate with others inside the main polling station, in particular not to show their vote on the ballot paper to others and to film, take photograph or make any audio or video recording. They were also reminded not to remove a ballot paper from the main polling station. When entering the main polling station, EC members were further reminded to switch off their mobile phone by REO staff.

Recommendation:

14.28 The EAC considers it necessary to remind EC members of the need to follow relevant rules and regulations in the main polling station in order to ensure an orderly process. The EAC is of the view that the measures set out in paragraph 14.27 above are appropriate and recommends that they should be adopted again, as applicable, in future elections.

**Relevant documents on
practical arrangements of the 2017 Chief Executive Election**

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	16.1.2012 (Item IV)	Agenda Minutes
		Report on the 2012 Chief Executive Election submitted by the Electoral Affairs Commission to the Chief Executive
	20.6.2016 (Item II)	Agenda Minutes

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