

**Legislative Council
Panel on Constitutional Affairs**

**Electoral Affairs Commission Report on
the 2016 Legislative Council General Election**

INTRODUCTION

This paper informs Members of the major findings and recommendations in the Electoral Affairs Commission (“EAC”) Report on the 2016 Legislative Council general election (“the Report”).

BACKGROUND

(A) The Report

2. The 2016 Legislative Council (“LegCo”) general election was held on 4 September 2016. Section 8 of the EAC Ordinance (Cap. 541) requires, inter alia, that the EAC shall make a report to the Chief Executive, within three months after the election, on matters relating to that election in respect of which the EAC has any function under Cap. 541 or any other Ordinance. Accordingly, the EAC submitted the Report to the Chief Executive on 2 December 2016.

3. The Report describes how the EAC conducted and supervised the election at various stages and gives a detailed account of the preparatory work, electoral arrangements and handling of complaints. The Report also contains a review of the electoral procedures and arrangements and puts forth recommendations for improvement in future elections.

4. The Government agrees with the EAC’s recommendation to publicise the Report. 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 LegCo Members for reference.

(B) EAC's Major Findings and Recommendations

5. On the whole, the EAC considers that the LegCo election was conducted in an open, fair and honest manner, and is generally satisfied with the electoral arrangement. The EAC conducted a comprehensive review of all aspects of the electoral procedures and arrangement, and set out its review findings and recommendations in Chapter 14 of the Report. Major recommendations are highlighted in paragraphs 6 to 28 below.

(a) Identification of Suitable Venues as Polling Stations

6. The Registration and Electoral Office ("REO") encountered great difficulties in identifying and acquiring suitable and sufficient venues for use as polling stations. For example, quite a number of schools were not made available for use as polling stations. As a result, some of the polling stations were eventually set up in less spacious venues or venues that were not accessible to electors with mobility difficulties. The EAC understands that the REO had made its best efforts to identify suitable venues for use as polling stations and considers that REO should continue its efforts in future elections. The EAC appeals to all schools, public bodies and local organisations to accede to the REO's request for use of their premises as polling stations in future elections (paragraph 14.5 of the Report).

7. The EAC further observes that the ever-increasing voter turnout for the LegCo elections in recent years has led to a significant rise in the number of ballot papers to be counted, and as a result, the lengthening of the vote counting time. If the polling hours in future elections are to remain unchanged, the REO will need to procure the venues for three consecutive days (instead of two) in order to meet the operational needs (from setting up of the polling stations before the polling day to the completion of the count a day afterwards) under the existing polling-cum-counting arrangement for the geographical constituency ("GC") elections.

8. The EAC therefore proposes looking into the operational details of the following alternative options –

- (a) if the polling day is still to be fixed on a Sunday, given that most of the polling stations are set up at school premises, the relevant authority may consider whether it is desirable to designate the day following the LegCo election polling day (i.e. Monday) a school holiday;

(b) the polling day may be scheduled on a Saturday in order to allow the count to be extended to Sunday at the same venue (although the setting up of the polling stations will have to be advanced to a Friday accordingly); and

(c) one or more regional counting station may be set up for each GC.

(paragraph 14.112 of the Report)

(b) Design of Ballot Papers

9. Under the existing legislation, the names and photos of candidates, as well as the registered names and emblems of prescribed bodies are printed on the ballot papers. With the growing number of candidates in recent elections, the sizes of ballot papers for GCs became exceedingly large. It hindered the printing, production, checking and delivery processes and the polling and counting workflows. Hence, the EAC appeals to the community to take note of the problem, and consider the possibility of containing the particulars of the candidates currently printed on ballot papers, e.g. by deleting the photos of candidates. If mainstream opinion in the community agrees with the adjustment, the Government should propose legislative amendments accordingly (paragraphs 14.12 and 14.110 of the Report).

(c) Conveyance of the Ballot Papers

10. Same as all previous public elections, the Presiding Officers (“PROs”) and their deputies collected some of the ballot papers for use at their respective polling stations about one week before the polling day and brought the same to the polling stations on the polling day. Concerns over the existing arrangement were raised by the public in this election.

11. The REO previously conducted studies on other methods of delivery of the ballot papers, such as sending them to the polling stations directly before the polling day. However, the REO considers this method impracticable owing to objective constraints including the large number of ballot papers and polling stations involved, the lack of proper storage facilities and the security of polling stations.

12. Besides, the REO considers that the existing arrangement has proven to be effective for the following reasons –

- (a) it is an appropriate arrangement to entrust the PROs and their deputies, who are all at officer grade or above in the government structure, with the custody and delivery of the ballot papers;
- (b) all ballot papers collected were put into sealed plastic bags with sealing strips bearing the signatures of staff concerned affixed and the sealed packets of ballot papers could only be opened at the polling stations on the polling day;
- (c) the PROs and their deputies had to undergo verification and receiving procedures when collecting the ballot papers and hence were held accountable;
- (d) the candidates or their agents might request checking the ballot papers before the poll began; and
- (e) polling staff were required to supervise different procedures involving the ballot papers before and during polling hours.

The EAC considers that while the REO should continue to look for other practicable methods to deliver the ballot papers, it would be undesirable to introduce any changes rashly in the absence of a better arrangement (paragraph 14.27 of the Report).

(d) “Withdrawal of Candidature” During the Nomination Period and “Abandonment of Election” After the Nomination Period

13. Under the electoral law, a candidate may only withdraw his/her nomination before the close of the nomination period. However, a number of candidates declared their so-called “abandonment of election” with cessation of their election campaigns after the close of the nomination period. There are concerns in the community that the claims of “abandonment of election” might give rise to confusing information about the election, thereby impairing the integrity of the election.

14. The existing legislative requirement of not allowing candidates to withdraw from the election after the close of the nomination period not only ensures that there will not be confusing information in the election, but also serves to facilitate various electoral arrangement. The EAC considers that

the society needs to take a serious view of the so-called “abandonment of election”, and to consider whether it is necessary to prohibit validly nominated candidates from publicly announcing “abandonment of election”, such that the relevant authority could study whether existing legislation needs to be amended to that effect, in order to uphold the spirit of the existing legislation (paragraphs 14.33 and 14.34 of the Report).

(e) Voting Preference Surveys

15. Under the electoral law, the EAC is only authorised to regulate exit polls conducted at the “no canvassing zones” outside polling stations on the polling day. There is at present no legislation to regulate so-called voting preference surveys conducted on the polling day but outside the “no canvassing zones”, or opinion polls relating to the election conducted on or before the polling day.

16. The EAC noticed that various surveys were conducted by different organisations to collect information on voter preferences on or before the polling day with announcement of the results. It also noticed from the media reports that some people intended to use the results of such survey to influence selected voter groups and for the matching of votes. In view of keen public concerns on various types of surveys on voters’ preference, the EAC considers that society should address and explore how this issue should be handled in future public elections (paragraph 14.39 of the Report).

(f) Production of Photocopy of Hong Kong Identity Card to Apply for Ballot Papers

17. There were media reports that a candidate and an elector were able to collect ballot papers by only producing photocopies of their Hong Kong Identity Cards (“HKIDs”) on the polling day. The EAC issued a press release in the afternoon of the polling day clarifying that under the existing legislation, an elector is required to produce a proper identity document in applying for ballot paper(s), but that document is not restricted to an HKID only. However, ballot papers would not be issued to any person who could only produce a photocopy of his/her HKID. The REO also reminded all polling staff of the same immediately.

18. The EAC recommends that the relevant authority should consider amending the legislation to set out expressly that an elector must produce the original copy of his/her HKID before a ballot paper can be issued. Before legislative amendments are made, the EAC recommends that the REO should enhance the training of polling staff. If an elector produces the HKID or Hong Kong Special Administrative Region Passport, ballot papers should be issued to him/her. However, if an elector could only produce other government documents carrying his/her name and photograph (e.g. Senior Citizen Card), that person must produce a copy of his/her HKID at the same time (paragraphs 14.53, 14.54 and 14.110 of the Report).

(g) Voter Registration for the District Council (second) Functional Constituency

19. The EAC received complaints from about 180 electors who claimed that they were not able to cast votes in the District Council (second) functional constituency (“DC (second) FC”) on the polling day. The REO, after checking the relevant records, found that all of the electors concerned have chosen not to be registered as an elector for the DC (second) FC when submitting their applications for voter registration or upon change of registration particulars earlier on. The REO thus acted in accordance with their wishes and did not include them in the final register for the DC (second) FC.

20. In the course of following up on the complaints, the REO found that many electors, when filling in the application forms, did not realise that the DC (second) FC was the commonly called “Super District Council” FC, and had therefore mistakenly given up the right to vote in that FC. The EAC is of the view that the REO should consider improving the design and content of the aforementioned application form, and provide clearer information for persons who wish to be registered in the DC (second) FC, so as to facilitate their understanding when filling in the form. In addition, the Government should strengthen the publicity on the registration procedures for the DC (second) FC when launching major voter registration campaigns in future, in order to enhance public understanding of that FC (paragraphs 14.57 and 14.58 of the Report).

(h) Long Queues at Some Polling Stations

21. In the early evening on the polling day, queues started to appear at some polling stations. After the close of poll, quite a number of electors were still queuing up to cast their votes at more than 30 polling stations. Four polling stations in Tai Koo Shing, Yau Tong, Lam Tin and Ngau Tau Kok respectively had a particularly large number of electors queuing. In the event, one of these polling stations could not be closed until all the queuing electors completed casting their votes at around 2:30 am on the following day. As a consequence, the counting of votes was delayed.

22. Although the REO already made assessment of the capacity of all the polling stations in advance, the EAC is of the view that insufficient space at some polling stations to accommodate a large number of electors was the main reason why queues were formed at those polling stations. Other factors include the marked increase in the number of electors and the fact that quite a number of electors cast their votes at a later time on the polling day.

23. The EAC has instructed the REO to review and improve the arrangement regarding the designation of polling stations, to conduct a more detailed estimation of the throughput of polling stations in advance in future elections, and to secure more and larger venues for use as polling stations as far as possible. The EAC also considers that the REO should strike a better balance between the size of the polling station and the accessibility of the location. Where necessary, the REO should look for appropriate venue at a location farther away to ensure that the polling station has sufficient space to accommodate the electors and handle the throughput of electors during peak hours (paragraph 14.76 of the Report).

(i) Discrepancies between Voter Turnout Figures and the Number of Ballot Papers Actually Counted

24. At the close of poll, the cumulative voter turnout released by five polling stations were found to fall short of the numbers of GC ballot papers issued by a margin of 100 to 300 because of statistical errors and omissions. The REO conducted detailed investigation into the cases and revealed that the polling officers concerned on duty at the ballot paper issuing desks of the five polling stations forgot to record on the control sheets a total of 100 to 300 GC ballot papers received from the PRO in the last one to two hours before the close of poll. This resulted in the obvious discrepancy between the cumulative voter turnout released and the number of ballot papers issued to the electors at the polling stations.

25. The EAC considers that the incidents reflect the problems of polling staff working very long hours, manpower shortage and issue of order at the polling stations. The EAC recommends a review and adjustment of the honoraria for the polling staff in order to attract more civil servants undertaking duties at polling stations. Moreover, consideration may be given to the possibility of dividing the current working hours into two shifts so as to avoid polling staff from making mistakes due to fatigue. Even if a two-shift system could not be implemented across-the-board due to the inability to recruit sufficient staff, consideration should still be given to implementing a two-shift system partially at specific polling stations so as to enhance the manpower there.

26. In respect of the statistical work, the REO should review the statistical forms with a view to strengthening the monitoring function of counter-checking and countersigning among different polling staff, and consider increasing the number of staff responsible for statistical work to alleviate their pressure (paragraphs 14.92, 14.93 and 14.111 of the Report).

(j) Use of Information Technology to Enhance the Voting Process

27. There were electors queuing up outside some polling stations on the polling day. Some views suggested that information technology (“IT”) should be introduced to expedite the voting process. Subsequent to the 2012 LegCo general election, the REO has commissioned an independent consultancy firm for feasibility study on facilitating the election process through the use of IT. The coverage of the study included making recommendations on the introduction of electronic voting. The consultancy report mentioned certain enhancement measures, while pointing out the difficulties that might be encountered in actual operation, e.g. whether the polling stations are already equipped with the relevant IT facilities, whether network coverage in the area concerned is well-established, the time required for installing the relevant IT equipment in a large number of polling stations, and the provision of technical support on the polling day, etc.

28. The EAC considers that computerisation of the electoral process should be the way forward. With the development of IT, the REO should continue to carry out comprehensive and in-depth feasibility studies to assess the use of IT in different aspects of the election process with a view to making better voting arrangement, also ensuring the technology adopted can provide an independent and visible audit function (paragraph 14.96 of the Report).

29. Overall speaking, the EAC hopes that the review and recommendations made on matters relating to the 2016 LegCo general election will bring about attention and discussions by the public, and expects positive follow-up actions by the relevant authority.

(C) Way Forward

30. In overall terms, we consider the findings and recommendations of the Report acceptable. We will work with the EAC to follow up on the EAC's recommendations.

Constitutional and Mainland Affairs Bureau
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