

立法會

Legislative Council

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Panel on Constitutional Affairs **Updated background brief prepared by the Legislative Council Secretariat** **for the meeting on 15 October 2018**

Practical arrangements for the 2018 Legislative Council **Kowloon West Geographical Constituency By-election**

Purpose

This paper summarizes past discussions by the Panel on Constitutional Affairs ("the Panel") on the practical arrangements for the Legislative Council ("LegCo") by-elections since the First LegCo.

Background

2. Since the 1998 LegCo election, six LegCo by-elections have been held, namely, the 2000 LegCo Hong Kong Island ("HKI") geographical constituency ("GC") by-election, the 2001 LegCo Election Committee by-election, the 2007 LegCo HKI GC by-election, the 2010 LegCo by-election, the 2016 LegCo New Territories East ("NTE") GC by-election and the 2018 LegCo by-election.¹

3. In accordance with section 35 of the Legislative Council Ordinance (Cap. 542) ("LCO"), the Clerk to LegCo must, by notice published in the Gazette, declare the existence of a vacancy in the membership of that Council within 21 days after becoming aware of the vacancy. Section 36(1)(a) of LCO further stipulates that the Electoral Affairs Commission ("EAC") must, in accordance with regulations in force under the EAC Ordinance (Cap. 541), arrange for a by-election to be held when the Clerk to LegCo makes a declaration as to the existence of a vacancy in the membership of LegCo. The Guidelines on Election-related Activities in respect of LegCo Election issued by EAC apply to all LegCo general elections and by-elections.

¹ The 2018 LegCo by-election was held in March 2018 to fill four vacancies in membership of LegCo, including one vacancy for each of the three GCs (HKI, Kowloon West and NTE), and one vacancy for the Architectural, Surveying, Planning and Landscape functional constituency.

4. According to section 8 of the EAC Ordinance, EAC shall make a report to the Chief Executive, within three months after an election, on matters relating to that election in respect of which the Commission has any function under the Ordinance or any other Ordinance. An extract on "Review and Recommendations" from the EAC Report on the 2018 LegCo by-election is in **Appendix I**.

5. A LegCo by-election will be held on 25 November 2018 to fill one vacancy in membership of LegCo Kowloon West GC. The nomination period for the by-election will run from 2 to 15 October 2018.

Relevant discussions of the Panel

Timeframe for holding a by-election

6. Some members called on the Administration to consider amending LCO to provide for a timeframe for holding by-elections for filling vacancies in the membership of LegCo. There was a suggestion that a LegCo by-election should be held within five months after such a vacancy arose. The Administration advised that the existing legislation only stipulated that no by-election would be held to fill a vacancy occurring in the membership of LegCo/District Councils ("DCs") within the four months preceding the end of the current term of office of LegCo/DCs. The established practice was that EAC would arrange a by-election as early as possible.

Polling and vote counting arrangements

7. During discussion of the practical arrangements for the 2018 LegCo by-election on 4 January 2018, some members considered that the electoral arrangements should be reviewed to avoid a recurrence of what had happened in the 2016 LegCo General Election where a large number of electors were still queuing at some polling stations to cast their votes after the close of poll at 10:30 pm.

8. The Administration advised that it had critically reviewed the relevant arrangements and, to avoid overcrowding, additional ballot paper issuing desk(s) and voting compartment(s) would be set up at certain polling stations in the 2018 LegCo by-election. In addition, the Registration and Electoral Office ("REO") would take proactive steps to replace venues for some other polling stations with more spacious ones, set up additional polling stations, as well as reallocate electors to other station(s). For instance, some polling stations that were relatively smaller in size (e.g. those set up in kindergartens) would be replaced with larger ones to be set up in sports centres and primary/secondary schools for the 2018 LegCo by-election.

Confirmation Form and validity of nomination

9. Some members questioned the legal basis of the continued use of a Confirmation Form in the 2018 LegCo by-election. There was a view that the Administration should clearly explain the impact of signing/not signing a Confirmation Form on the eligibility of the person concerned who was seeking candidature.

10. The Administration explained that the Confirmation Form was prepared by EAC to facilitate the Returning Officers' ("ROs") discharge of their duties under the nomination procedure to ensure that all candidates fully understood the legal requirements, and on such basis, were bona fide when signing the declaration in the nomination form. ROs would exercise their statutory power to process all nominations in accordance with the legal requirements and relevant procedures. Depending on the actual circumstances of each case, ROs might seek legal advice and according to the law request the candidate to provide additional information that they considered necessary.

11. Some members enquired about the eligibility of persons who had been ruled by the court to be disqualified from assuming the office of member of LegCo and intended to run in by-elections. The Administration reiterated that according to LCO and the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), ROs were required to decide whether a nomination was valid according to the law.

12. Members may wish to note that in response to concerns expressed by individual members over matters in relation to nomination in LegCo elections, the Administration provided an information paper in February 2018 on the relevant nomination procedures [LC Paper No. CB(2)903/17-18(01)].

Delivery of election advertisements

13. On the sending of election advertisements ("EAs") and related materials, some members expressed support for encouraging candidates to disseminate EAs by electronic means for the protection of the environment. They considered that REO should provide candidates with the choice of receiving the address labels of electors for sending EAs on an individual or household basis, in order to reduce the consumption of address labels. Some other members, however, held the view that each candidate should be provided with the address labels pertaining to the electors in the constituency concerned, including those who had provided REO with their email addresses, so that candidates could have a choice of sending their EAs by post to electors when they needed to. There was also a suggestion of providing cash rebates to those candidates who chose not to utilize

the free postage provided by the Government, with a view to providing financial incentive to encourage candidates in sending EAs to electors by more environmentally friendly means instead of by post.

14. The Administration advised that it would step up publicity to encourage electors to provide their email addresses. According to REO, it had been an established practice to provide each candidate upon request with a set of address labels pertaining to the electors in the constituency. The Administration advised that REO would continue to implement green measures by offering candidates the choice to select between address labels printed on a household basis (i.e. one address label for one household) and address labels printed on an individual basis (i.e. one address label for each individual elector except those who had provided REO with their email addresses for receiving EAs).

Training of staff

15. Some members expressed concern that as revealed in the petitions and complaints received by EAC, some Presiding Officers, Deputy Presiding Officers and polling staff were not very familiar with the electoral legislation, guidelines and the directives laid down in the operational manual issued for the Presiding Officers and polling staff. The Administration was urged to enhance staff training, and not to recruit non-civil servants as electoral staff.

16. The Administration advised that a majority of the electoral officers were civil servants and were experienced. To enhance training for electoral staff, an experience-sharing session would be added and training manuals would be beefed up to give more detailed guidance to electoral staff. In addition, polling management training which included crisis management, quality polling service, emotional intelligence training and experience sharing workshop would be organized for staff at the supervisory level. For those polling staff assigned to the duties of compiling statistical returns and counting results, specialized training on statistical work and hands-on practice would be provided to them.

17. Some members expressed concern about the improvement measures to be implemented in the light of the experience gained from the computer theft incident of REO in March 2017. The Administration advised that REO had stepped up its training for electoral staff with regard to the handling of personal data. Besides, REO would strictly follow the internal physical and technical security guidelines governing the handling and safe-keeping of computer equipment and personal data used in elections. The use of personal data would be restricted to staff on a "need-to-know" and "need-to-use" basis. At the request of the Panel, REO has provided supplementary information in this regard (see **Appendix II**).

Recent development

18. The Administration will brief the Panel on the practical arrangements for the 2018 LegCo Kowloon West GC By-election at the next meeting on 15 October 2018.

Relevant papers

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

Council Business Division 2
Legislative Council Secretariat
12 October 2018

Section 7 – Review and Recommendations

7.1 The EAC considers that this By-election has been conducted in an open, fair and honest manner, and is generally satisfied with the electoral arrangements. In line with the established practice, the EAC has conducted a comprehensive review of the electoral procedures and arrangements of the By-election with a view to improving the conduct of future elections. The EAC's review findings and the related recommendations are set out in the ensuing paragraphs.

(A) Reviewing the Arrangements for Briefing for Candidates

7.2 At the briefing for candidates held on 1 February 2018, a candidate had expressed the view that the briefing had taken up considerable manpower and resources and was quite long-winded. He suggested a review be conducted with considerations to improving the arrangements so that candidates could be exempted from attending the briefing. The EAC Chairman responded at the briefing that it was an established practice for the EAC to organise the briefing for candidates with a session for the drawing of lots to determine the candidate numbers and allocate designated spots for the display of EAs. Following a review on the relevant arrangements and having considered the views collected in the past, the drawing of lots is now held before the briefing, so that candidates who do not wish to attend the briefing may leave after the drawing of lots. As election-related legislation and guidelines are quite intricate, the briefing is arranged by the EAC to enable candidates

to raise questions in case of doubt. If candidates were unable to attend the briefing for whatever reasons, their agents could do so on their behalf. Moreover, the contents of the briefing by the EAC Chairman as well as other electoral information has all along been uploaded to the election website for browsing by candidates at any time they wish. In any case, candidates are free to decide whether they will like to attend the briefing or not.

7.3 **Recommendation:** With technological advancement and the increasing dissemination of information, electoral information provided for the candidates uploaded to the Internet have become more detailed². Accordingly, the contents covered in the briefing have already become more concise. In addition, candidates can also make enquiries or request information through email or the REO's hotline. Nevertheless, it is a longstanding practice to organise briefing for candidates, and the briefing is also an opportunity whereby the candidates and/or their agents can meet with the EAC Chairman. However, having considered the problems of disrupting the order that have occurred at briefings in recent years, it is suggested that the REO should review the arrangements as a whole.

(B) Formulation of Contingency Plans

7.4 In accordance with the EAC (EP) (LC) Reg, if it appears to the

² Examples of which are: the Candidate Folder, the election website setting out all kinds of related information, the webpage on clean elections run by the Independent Commission Against Corruption, and the Hong Kong e-Legislation which includes the electoral legislation.

EAC that the election, the poll or the count is likely to be obstructed, disrupted, undermined or seriously affected by any of the following occurrences specified in Schedule 2 to the Regulation, it may adjourn the election, the poll or the count by making a declaration:

- (a) a typhoon or other climatic condition of a serious nature;
- (b) riot, open violence or any danger to public health or safety; or
- (c) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or the count.

Apart from formulating a contingency plan in respect of this By-election for handling the adjournment of the election, the poll or the count due to the above-mentioned scenarios, the REO has also enhanced the contingency plan to strengthen the security measures and laid down detailed guidelines, addressing to the security issues of the fallback venue in the 2017 Chief Executive (“CE”) Election. In order to deal with other possible incidents, the plan also contained a series of corresponding contingency measures including those set out in paragraph 3.9 above.

7.5 The CCS and MC of this By-election were set up at the HKCEC in Wan Chai, while the fallback CCS and MC were set up at the Hang Hau Sports Centre in Tseung Kwan O. Whereas suspected wartime bombs were found on two occasions at the Wan Chai construction site for

the MTR's Sha Tin to Central Link in late January 2018, the nearby shops, offices and apartments had to be closed for one to two days and the staff/residents in the buildings concerned had to be evacuated. Since the HKCEC was located close to the construction site where the bombs were found, it was highly likely that the CCS and MC set up at the HKCEC would be unable to operate if bombs were found again in the aforementioned construction site before the polling day. After assessing the risks involved, the REO considered that the chance of having had to operate the fallback venue set up at the Hang Hau Sports Centre was increasingly high. Therefore, comprehensive contingency measures were specifically drawn up for this purpose when preparing the contingency plan for this By-election.

7.6 To ensure that the fallback venue could be operated swiftly and effectively, the REO had equipped the venue with necessary facilities and equipment, and prepared an emergency contact list for contacting officers of relevant government departments and staff of the CCS in the first instance. Furthermore, the REO had also arranged coaches and lorries parked near the HKCEC for swift transport of staff and delivery of FC ballot boxes to the fallback CCS for vote counting when necessary. The REO had also devised plans with the Transport Department ("TD") and the Police to assess the road conditions and the maximum vehicular capacity near the fallback venue and informed the PROs of the transport arrangements for the fallback CCS and the relevant routes in advance. Besides, with the assistance of the Fire Services Department, the REO had secured the use of the Fire and Ambulance Services Academy near

the Hang Hau Sports Centre as a temporary vehicle marshalling area for the parking of over 300 ballot box delivery vehicles where necessary. As for the arrangements for the handling of personal data and relevant security measures, please refer to paragraph 7.9 below.

7.7 **Recommendation:** Given the considerable scale of LegCo general elections and by-elections for GCs, the drawing up of a contingency plan for every election to deal with possible emergencies swiftly is of utmost importance. The REO had, on account of the special circumstances of this By-election, devised detailed contingency measures for the CCS and MC at the HKCEC to ensure that the fallback venue could be operated swiftly and effectively when necessary. The EAC recommends that the REO should, in respect of every election in the future, continue to devise a set of appropriate contingency plans after consulting relevant government departments so as to handle special incidents that may occur in a swift and effective manner.

(C) **Security Arrangements at the Central Counting Station and Media Centre**

7.8 As in the past LegCo general elections, the REO had drawn up a security plan for the CCS and MC set up at the HKCEC to ensure smooth conduct of the count. The security measures followed those adopted at the CCS in the 2016 LegCo General Election which included the installation of closed-circuit television (“CCTV”) cameras and stationing of security personnel for maintenance of order at appropriate locations

inside the venue. Besides conducting bag search, members of the public and the media were also required to go through a metal detector scan before admission which was introduced in the 2017 CE Election for the first time.

7.9 For this By-election, the REO has also strengthened the security measures with respect to the handling of personal data. Downloading of electors' personal data from the REO's information system to mobile devices and taking them out of the office premises was not allowed. In addition, CCTV cameras were installed at the entrance/exit of rooms where hard copies of the personal data were stored and security guards were also deployed for provision of round-the-clock surveillance from the venue set-up to conclusion of this By-election. Separate log entry must be made for individual member of staff accessing the rooms. The relevant information stored in the rooms must be kept in steel cabinets fitted with a crossbar and padlock, etc.

7.10 Moreover, a corresponding security plan was formulated by the REO for the fallback venue at the Hang Hau Sports Centre. Under the premise of protection of personal data, the REO would only deliver hard copies of the personal data to the fallback venue when there was indeed a need to activate the venue.

7.11 The REO has formulated the aforementioned security plan in consultation with the Police and the HKCEC (Management) Limited. The plan was examined by the CEO before its submission for

consideration by the EAC, and was put into implementation after obtaining the approval of the EAC.

7.12 All in all, the security check prior to entry to the CCS and MC was conducted smoothly and good order was maintained inside the venue.

7.13 **Recommendation:** The EAC considers the security plan for the CCS and MC in this By-election has been proper. The security check prior to entry to the CCS and the MC was conducted in a smooth manner and good order was maintained inside the venue. The security measures ensured the safe and uninterrupted conduct of the count, and also effectively safeguarded the proper storage and use of personal data kept inside the venue. The EAC considers that the REO should, in future elections, continue to consult the views of the relevant government departments and agencies in drawing up appropriate security plans for the CCS and MC for the maintenance of good order inside the venue and ensuring smooth conduct of the count.

(D) Facilitating Voting of Polling Staff on the Polling Day

7.14 The REO has always encouraged polling staff who are electors to vote at their designated polling stations on the polling day. During the training sessions organised prior to the election, the REO had reminded PROs that they should, as far as possible, make arrangement for polling staff who intended to vote on the polling day to do so without

disrupting the operation of their polling stations. To avoid polling staff from all voting at a particular period of time, thereby affecting the normal operation of polling stations, the REO had also recommended to PROs some flexible arrangements, such as allowing polling staff to vote on the polling day before assuming their duties at the polling stations, or arranging them to vote during their lunch/dinner breaks. Moreover, in this By-election, the REO had deployed more staff to individual polling stations as required by circumstances, and had arranged additional manpower at emergency depots on the polling day to provide back-up for those polling stations whose staff were away to vote.

7.15 **Recommendation:** Voting is a civil right of all eligible electors. The EAC opines that the Government should proactively consider adopting appropriate measures in future elections, including studying whether arrangements can be made for polling staff to vote in advance, so as to facilitate voting by polling staff. Subject to the successful recruitment of sufficient polling staff, the REO should continue to reserve additional manpower on the polling day to provide support to polling stations in need.

(E) **Provision of Interactive Voice Response System Telephone Enquiry Service for Visually Impaired Electors**

7.16 The REO all along has put in place various measures to help electors with special needs exercise their right to vote. To further facilitate electors with visual impairment to access the “Introduction to

Candidates” and other electoral information, the REO, apart from continuing to provide an enquiry hotline for this By-election, has introduced on a trial basis a 24-hour Interactive Voice Response System (“IVRS”) to enable visually impaired electors to call at any time to listen to the recording made from the text version of the “Introduction to Candidates”. Through the IVRS, electors with visual impairment can also be redirected to operators of REO’s enquiry hotline during its operating hours to obtain other electoral information. Moreover, the REO has also arranged an additional telephone line at all ordinary polling stations to enable visually impaired electors to, if necessary, have access to the IVRS using the telephone in the polling stations to listen to information in the text version of the “Introduction to Candidates” before casting their vote.

7.17 In order for electors with visual impairment to learn about this new arrangement, the REO has sent e-mails to nine relevant non-governmental organisations about three weeks before the polling day to brief them about the various measures and arrangements, in particular the above-mentioned IVRS, that had been put in place to help visually impaired electors vote in this By-election. In addition, e-mails were also sent to those visually impaired electors who had registered for receiving REO’s e-mails regarding electoral arrangement, informing them that they could call the IVRS to listen to the recorded version of the “Introduction to Candidates”. The IVRS came into operation on 15 February 2018 until the close of poll on 11 March 2018. The system ran smoothly in the above period. During the whole service period, a total of 148 cases

involving the use of the IVRS were recorded, 37 of which involved the use of the telephone provided in the polling stations during the polling hours to call the IVRS for relevant information.

7.18 **Recommendation:** The REO has successfully piloted the use of the IVRS in this By-election to facilitate the receipt of electoral information among visually impaired electors. This was partly due to the fact that only a limited number of recordings of the text version of the “Introduction to Candidates” had to be made as there were a relatively small number of candidates in this By-election. Based on the experience gained in this By-election, the REO should review the arrangements concerned including the conduct of a study on the feasibility of providing the relevant service in major elections (e.g. District Council ordinary elections, LegCo general elections, etc.) where a large number of candidates are involved. In case it is impracticable to make numerous recordings of the text version of the “Introduction to Candidates” due to time constraints, the REO should explore other means, including electronic means, to provide the same or like information to electors with visual impairment. Moreover, the REO should consider enhancing the publicity activities in future elections so as to increase the usage of the IVRS service by electors with visual impairment.

(F) **Mechanism for Notification of Commencement of Counting Procedures**

7.19 In this By-election, the REO adopted basically the notification mechanism that was first introduced in the 2017 Central and Western District Council By-election for the Peak Constituency and Tung Wah Constituency in order to ensure that counting of votes would only commence after voting had been completed at all polling stations within the same GC. At the close of poll, the PROs at various polling stations were required to report the completion of voting to the SIC of the REO, after which they would convert the polling stations into counting stations and wait for further instructions from the REO. Upon ascertaining the completion of voting at all polling stations within the same GC, the SIC would issue instructions by Short Message Service (“SMS”) to all PROs and DPROs under the same GC to commence the counting process, with a follow-up re-confirmation over the telephone with the PROs. Regarding the need for a re-count in the Kowloon West GC, the SIC also issued instructions over the telephone to all PROs concerned to commence the re-count. The REO is of the view that the arrangement of using SMS to issue instructions to PROs on the polling day in this By-election was efficient and effective.

7.20 **Recommendation:** The EAC considers that the REO’s arrangement of using SMS to issue instructions to PROs has worked well in this By-election. It opines that the REO should consider continuing with this arrangement in the conduct of various public elections in the future, as well as widening its application, including issuing instructions

on re-count to PROs through SMS.

(G) Arrangements for Return of Polling Venues in Morning after Polling Day

7.21 A total of 319 ordinary polling stations were set up by the REO in this By-election for eligible electors to cast their votes in the Hong Kong Island, Kowloon West and New Territories East GCs. Seventy five of these stations were set up in venues of the Leisure and Cultural Services Department or Home Affairs Department such as sports centres and community centres. While there was no need for the REO to return these venues by 6:00 am on the day after the polling day, the majority of the remaining polling stations which were set up in schools were required to be returned by 6:00 am on the day after the poll for teachers and students to resume classes at normal time.

7.22 In the 2016 LegCo General Election, a large number of electors were still waiting for the issuance of ballot papers at some polling stations when the poll was scheduled to close, causing delays in vote counting. Although fallback venues had been arranged by the REO for vote counting in accordance with established practice, the EAC, after taking into account the risks involved in moving (e.g. the possible effects on vote counting due to the loss of ballot papers or electoral documents by counting staff in the process of moving to the fallback venues), did appeal to the various venue management bodies for assistance so that the counting staff would be allowed to continue vote counting in situ after

6:00 am. However, as the request was made with short notice to the school management, management of some of the schools did make the request that the counting staff could leave the school as early as possible as they were worried their continued staying in the school premises after 6:00 am on the day after the polling day might affect the teachers and students having classes at schools. Having regard to this experience, and taking into account the fact that more than half of the polling stations were set up in school premises, and to avoid the same situation happening again, the REO had liaised with officials of the Education Bureau (“EDB”) before the conduct of this By-election and reached consensus on the arrangements concerning the return of the school premises on the day after the polling day. If the REO envisaged that it was necessary for the counting staff to stay in the school premises for a short period of time after 6:00 am on the day after the poll to continue with the vote counting, the REO with the EDB’s assistance would contact the school management which did not allow counting staff to continue staying in the school premises after 6:00 am so that the counting work could proceed continuously in those schools concerned.

7.23 After the close of voting on the polling day of this By-election, polling stations of the Hong Kong Island, Kowloon West and New Territories East GCs were converted into counting stations immediately for vote counting to commence. The election results for the New Territories East and Hong Kong Island GCs were announced at around 4:20 am and 4:40 am on 12 March respectively. For the Kowloon West GC, as the RO concerned acceded to a candidate’s request for a re-count,

votes for that GC were recounted by all PROs concerned starting from around 4:50 am. To ensure a smooth conduct of the re-count, and given that the processing time for the re-count was expected to be shorter, the REO immediately contacted and informed the EDB and the management of the some 40 schools which were used as counting stations for the Kowloon West GC of the situation, and asked the management for their consent to allow the counting staff to stay inside the school premises for a short period of time after 6:00 am so that they could finish the re-count expeditiously. On the other hand, the REO also contacted the management of other venues which had requested the return of the premises by 6:00 am for a similar arrangement. With the support and collaborative efforts of the various schools and organisations, all the re-counts of the votes in the Kowloon West GC were completed at the same counting stations concerned smoothly. Upon the announcement of the election results of the GC concerned by the RO at around 8:00 am on 12 March, staff of all counting stations cleared up the venues and returned them to the respective management bodies of the premises.

7.24 **Recommendation:** The EAC would like to extend its heartfelt appreciation to the EDB and the management bodies of venues (including schools and other organisations) for their support and assistance in ensuring that the recounting work in the Kowloon West GC was conducted and completed smoothly at the same counting stations concerned. In the past, the entire process from setting up the polling stations to completion of the count could generally be finished within two days. However, 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. The current polling hours of Hong Kong (15 hours) are the longest as compared to other countries and regions. Given that the count can only commence after the poll at all polling stations for the particular GC/FC had closed, vote counting at many polling stations cannot be completed until the morning after the polling day. If polling hours in future elections are to remain unchanged and taking into account the possible needs for re-count, the REO may have to borrow the venues for more than two days in order to meet the operational needs. As the polling day is still to be fixed on a Sunday, and most of the polling stations are set up at school premises, the EAC recommends the relevant authority to actively consider all possible solutions, including the use of scientific technology and to designate the day following the LegCo election polling day a school holiday or the concerned school management to allocate part of their school premises after 6:00 am for continuation of the vote counting. In this regard, the entire counting process can be completed within the school area without the need to move to the reserve counting stations in order to return the school premises by 6:00 am. Such arrangement should not unduly interfere with teaching in the classrooms. The above measures will preclude the risks involved in the transport of ballot papers and other election materials from the counting station concerned and also ensure that delay will not be caused to the counting process, and on the other hand avoid inconvenience to the management bodies and users of the relevant venues.

(H) Unauthorised Display of Electioneering Vertical Banners

7.25 In accordance with established arrangements, designated spots will be allocated to candidates if they have informed ROs of their intention to display EAs at the designated spots provided by the Government. When using these designated spots, candidates are required to comply with the relevant conditions, including, inter alia, that they should not display any banners (including vertical banners/buntings) at or near railings and fences by the roadside so as to avoid distraction to motorists, interfere the line of sight of motorists and pedestrians, or block of any traffic sign or traffic light signal. These requirements are consistent with those set out in the “Management Scheme for the Display of Roadside Non-commercial Publicity Materials” of the Lands Department, and also reflect the road-safety requirements set out by the TD.

7.26 During this By-election, there were unauthorised display of EAs in the form of vertical banners at railings by the roadside and pavements, which may affect the road users. Based on the observation in previous elections, the problem of unauthorised display of EAs, especially vertical banners, has become more rampant nearer the polling day resulting in the relevant government departments having to deploy large number of staff and resources to carry out clearance.

7.27 **Recommendation:** The EAC is aware that the existing requirements and conditions for display of EAs are devised by the

relevant departments based on road safety considerations. The EAC is of the view that the Government may consider setting up an inter-departmental working group comprising the relevant bureaux and departments to study and review how more effectively the problem of unauthorised display of EAs in the form of vertical banners can be tackled. The working group may explore options such as selecting suitable locations in various districts for the allocation of designated spots for candidates to display EAs in the form of vertical banners. The EAC understands that even if the above option were adopted, unauthorised display of the EAs by individual candidates might still persist, but at least the candidates' request for displaying EAs in the form of vertical banners will be addressed as far as practicable. The working group may also study how to improve on enforcement and clearance actions against unauthorised display of EAs.

Appendix II
LC Paper No. CB(2)1014/17-18(01)

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Ms. Joanne MAK
Clerk to Panel on Constitutional Affairs,
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1 Legislative Council Road,
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9 March 2018

Dear Ms. MAK,

Panel on Constitutional Affairs Meeting on 4 January 2018
Supplementary Information from the Registration and Electoral Office

At the above-mentioned meeting, the Hon Tanya CHAN requested the Registration and Electoral Office (“REO”) to provide supplementary information in writing on the improvement measures to be implemented in light of the computer theft incident last year. The REO now provides the following supplementary information –

On 13 June 2017, the Task Force on the Computer Theft Incident of the Registration and Electoral Office (“the Task Force”) set up by the Constitutional and Mainland Affairs Bureau (“CMAB”) published a report putting forward a series of observations and recommendations regarding the REO’s handling of personal data, information technology (“IT”) security, general security of election venues, as well as on aspects pertaining to the permanent establishment of the department. The REO has implemented the majority of the recommendations made by the Task Force. Such measures will be implemented in the 2018 Legislative Council (“LegCo”) By-election to be held on 11 March 2018.

Handling of Personal Data

On handling of personal data, the REO has updated the relevant internal guidelines and procedures, which will be circulated among staff on a regular basis, stipulating that personal data should only be made available for access or use on a “need-to-use” and “need-to-know” basis. In addition, in protection of personal data privacy, only staff authorised to handle personal data are allowed to retrieve or access to the relevant personal data. The REO will also take all reasonably practicable steps to prevent personal data from unauthorised or accidental access, disclosure, processing, deletion or other use.

The REO will arrange briefing sessions before every major election in future to enhance staff’s awareness on personal data protection. In this regard, the briefing for the LegCo By-election to be held on 11 March has already been held in January 2018.

At the same time, the REO is now working in parallel on the formulation of a long-term Privacy Management Programme, including commissioning a suitable consultant through tender to assist in the development and implementation of the system.

IT Security

In respect of IT security, all members of the REO are prohibited from using the Electors Information Enquiry System (the system was installed on one of the notebook computers suspected to be stolen during the 2017 Chief Executive Election) in election venues, including those for this LegCo By-election, for the purpose of verifying voters’ identity and handling enquires. The REO has also updated its internal guidelines on IT security, and will ensure that its IT systems are in keeping with the latest requirements of the Government’s IT security policies, procedures and guidelines.

General Security of Election Venues

As for the general security of election venues, the REO will formulate a venue security plan for each election (including the coming By-election), and seek comments from the Police and the Electoral Affairs Commission on the

relevant security arrangements. The arrangements for the usage of personal data, together with the security arrangements, will be personally endorsed by the Chief Electoral Officer. The REO will also avoid storing any personal data in fallback sites before their actual activation.

Permanent Establishment of the REO

As regards the establishment, the CMAB has already submitted a proposal to the LegCo for converting the time-limited supernumerary Principal Electoral Officer post of the department into a permanent one, so that the planning and operational aspects of electoral activities can be overseen effectively, and that valuable experiences can be retained for sustainable review and improvement of the electoral system. A number of permanent posts will also be created under the REO to retain part of the core staff with electoral experience at the end of an election cycle to enable a detailed review of the electoral arrangements and the exploration of feasible improvement measures, so that electoral work will be better organised in the next election cycle. The REO will also assign civil servants occupying permanent posts to take up key planning and supervisory duties as far as possible.

Members are invited to note the above.



(Ms. Canny LEE)

for Chief Electoral Officer

c.c. Secretary for the Constitutional and Mainland Affairs
(Attn: Mr. Carlton MAN)

Appendix III

Relevant papers on practical arrangements for the 2018 Legislative Council Kowloon West Geographical Constituency By-election

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	12.6.2001 (Item IV)	Agenda Minutes
	15.10.2007 (Item III)	Agenda Minutes
	17.3.2008 (Item V)	Agenda Minutes
	19.4.2010 (Item IV)	Agenda Minutes
	16.11.2015 (Item III)	Agenda Minutes
	4.1.2018 (Item III)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
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