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8 March 2019

Legislative Council Secretariat  
Legislative Council Complex,  
1 Legislative Council Road,  
Central, Hong Kong.  
(Attn: Ms Joanne MAK)

Dear Ms MAK,

**Panel on Constitutional Affairs**

**Motion passed at the meeting on 18 February 2019**

Thank you for your letter dated 20 February 2019. Our written response to the motion passed under agenda item III “Launching a Pilot Scheme of Advance Polling in the 2020 Legislative Council General Election” at the meeting on 18 February 2019 is set out at the **Annex**.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Eiphie Chan'.

( Ms Eiphie CHAN )

for Secretary for Constitutional and Mainland Affairs

**Panel on Constitutional Affairs**

**Motion passed under agenda item III  
“Launching a Pilot Scheme of Advance Polling in  
the 2020 Legislative Council General Election”  
at the meeting on 18 February 2019**

This Panel supports the launching of a pilot scheme of advance polling to facilitate voting by civil servants who serve as polling staff and who are on duty on the polling day. However, since advance polling arrangements might lead to various problems such as the secrecy of voting results and the risk of loss of ballot papers, this Panel urges that prior to launching the pilot scheme of advance polling, the authorities must examine, for the sake of upholding the fairness and impartiality of elections, whether the relevant legislation and administrative measures currently in place are clear and sufficient, including the existence of corresponding legislation under which prosecution may be instituted against any acts which aim to manipulate elections by guiding the voting preference of electors through the pilot scheme of advance polling, and the existence of proper security measures for various election-related materials such as ballot boxes and ballot papers.

Moved by: Hon Starry LEE Wai-king  
Seconded by: Hon MA Fung-kwok

**Government’s Response**

In response to the Report on the 2018 Legislative Council By-election and following-up the Consultation Report on Review of Electoral Arrangements published in May last year, the Government recommends launching a pilot scheme of advance polling with a view to facilitating voting by polling staff and civil servants who are required to assume duties. To implement the concerned arrangements, we are reviewing the relevant electoral law with a view to carrying out the drafting of legislative amendments. Our reply to the concerns in the Motion is as follows.

## Surveys on Electors' Voting Preference

2. As an independent statutory body, the Electoral Affairs Commission (EAC) has always been ensuring elections in the Hong Kong Special Administrative Region are conducted in an open, fair and honest manner in accordance with the law. Under the existing legislation, an express permission of the EAC must have been obtained for the conduct of exit polls within No Canvassing Zones (“NCZs”). The EAC has promulgated guidelines in relation to the conduct, publication and broadcast of exit polls conducted within NCZs (“the Guidelines”) to avoid unfair interference with the election process by unduly influencing electors. Since the 2015 District Council Ordinary Election, the EAC has also required applicants or the applicant organisations to make a statutory declaration to abide by the relevant terms and the Guidelines on the conduct of exit poll.

3. Under the current pilot scheme of advance polling, only government employees who are required to perform election-related duties on the polling day that will prevent them from voting would be eligible for advance polling. Taking into account the scale and scope of the pilot scheme, the outcome of any exit poll conducted on the advance polling day would virtually disclose the voting preference of a single category of electors, i.e., government employees, even if the results are only disclosed after the main polling day. Therefore, for the proposed pilot scheme, we do not recommend allowing the conduct of exit poll on the electors' voting preference within NCZs of polling stations on the advance polling day.

4. There is no regulation under the existing legislation on election surveys conducted outside of NCZs on the polling day, and on election surveys conducted through different channels (e.g. by phone, on the Internet) prior to the polling day. However, if the election survey concerned involves publication of election advertisements (“EAs”) and election expenses, and the publisher is neither a candidate nor an election expense agent of the candidate, the publisher may then be contravening the Elections (Corrupt and Illegal Conduct) Ordinance (“ECICO”). If a candidate instructs that person or organisation to publish the EAs concerned and does not include such expenses in his/her election expenses, the candidate would also violate the regulation under the ECICO. Upon receipt of any complaint that someone may have engaged in corrupt or illegal conduct in elections, the EAC will refer

such complaint to law enforcement agencies for investigation and follow-up action.

### Security Measures on Election-related Materials

5. To uphold the secrecy of ballot, the votes cast on the advance polling day will be counted together with the votes cast on the main polling day. The Registration and Electoral Office (“REO”) will put in place sufficient security measures to safeguard the marked ballot papers and other election-related materials of the advance polling day. According to the preliminary approach of the REO, the ballot boxes used on the advance polling day, marked ballot papers, marked poll registers and other relevant electoral materials should be transported to one or several central locations under the escort of Police Officers and polling staff for storage before the main polling day. Subject to the actual operation, candidates or their agents (if they are present) will also be allowed to accompany in the delivery process.

6. To guarantee the safety of electoral materials stored at the central location(s), REO initially plans to install closed-circuit television (“CCTV”) operating on a 24-hours basis in the storage location(s) for surveillance purpose and deploy security guards at all entrances/exits. The ballot boxes containing marked ballot papers will be stored at a locked room(s) and kept under CCTV surveillance round-the-clock. The REO will also enlist support of the Hong Kong Police Force with a view to strengthening security.

7. On the main polling day, the ballot boxes and other electoral materials will be transported to the respective main counting stations under the escort of Police Officers and polling staff. Subject to the actual operation, candidates or their agents (if they are present) will be allowed to accompany in the delivery process.

8. The REO will continue to explore security measures with a view to ensuring the proper safekeeping of marked ballot papers and related materials.