

立法會
Legislative Council

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LC Paper No. CB(2)978/19-20
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 16 March 2020, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon CHEUNG Kwok-kwan, JP(Chairman)
Hon Kenneth LAU Ip-keung, BBS, MH, JP (Deputy Chairman)
Hon James TO Kun-sun
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, GBS, JP
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan

Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon Tanya CHAN
Hon LUK Chung-hung, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho

**Members
absent** : Hon Abraham SHEK Lai-him, GBS, JP
Hon WU Chi-wai, MH
Hon HUI Chi-fung

Public Officers : Item III
attending

Mr Andy CHAN Shui-fu, JP
Under Secretary for Constitutional and Mainland Affairs

Miss Rosanna LAW Shuk-pui, JP
Deputy Secretary for Constitutional and Mainland Affairs

Ms Cherie YEUNG Lok-sze
Principal Assistant Secretary for Constitutional and Mainland
Affairs

Mr Alan YUNG Ying-fai
Chief Electoral Officer
Registration and Electoral Office

Mr Raymond WANG Man-chiu
Principal Electoral Officer
Registration and Electoral Office

Miss Jennie CHAN Cheuk-yin
Deputy Chief Electoral Officer (Committee and Research)
Registration and Electoral Office

Item IV

Mr Andy CHAN Shui-fu, JP
Under Secretary for Constitutional and Mainland Affairs

Ms Cherie YEUNG Lok-sze
Principal Assistant Secretary for Constitutional and Mainland
Affairs

Mr Alan YUNG Ying-fai
Chief Electoral Officer
Registration and Electoral Office

Mr Raymond WANG Man-chiu
Principal Electoral Officer
Registration and Electoral Office

Miss Jennie CHAN Cheuk-yin
Deputy Chief Electoral Officer (Committee and Research)
Registration and Electoral Office

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (2) 3

Staff in attendance : Mr Bonny LOO
Senior Assistant Legal Adviser 3(Acting)

Ms Jasmine TAM
Senior Council Secretary (2) 3

Mr Dennis HO
Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

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I. Information paper(s) issued since the last meeting
[LC Paper Nos. CB(2)609/19-20(01) and CB(2)649/19-20(01)]

Members noted that the following papers had been issued after the last meeting:

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- (a) joint letter dated 4 February 2020 from 22 Members requesting this Panel and others to hold joint/special meetings to discuss issues relating to the prevention and control of coronavirus disease 2019 ("COVID-19") [LC Paper No. CB(2)609/19-20(01)]; and
- (b) letter dated 28 February 2020 from Dr Priscilla LEUNG proposing to invite the Chairperson of the Equal Opportunities Commission ("EOC") to a meeting of the Panel to explain the role of EOC and its complaint handling procedure [LC Paper No. CB(2)649/19-20(01)].

2. Referring to the joint letter in (a) above, the Chairman said that a Council meeting had been held on 19 February 2020 to deal with urgent questions regarding the Government's measures for tackling COVID-19. He also noted that the Panel on Health Services had held a special meeting on 10 March 2020 to discuss relevant issues. In the light of the above, he considered it unnecessary to hold a special meeting to follow up the matter. As regards Dr Priscilla LEUNG's letter in (b) above, the Chairman said that the EOC Chairperson was expected to brief the Panel on his work in May 2020. Meanwhile, he would request EOC to provide a written response to the issues raised in Dr LEUNG's letter for members' reference. No members raised any comments.

Clerk

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)676/19-20(01) and (02)]

3. Members agreed to discuss the following items proposed by the Administration at the next meeting on 20 April 2020 at 2:30 pm:

- (a) Administrative Guidelines on Promotion of Racial Equality; and
- (b) briefing by the Privacy Commissioner for Personal Data.

III. Electoral Affairs Commission Report on the 2019 District Council Ordinary Election

[LC Paper Nos. CB(2)677/19-20, CB(2)676/19-20(03) and (04)]

4. With the aid of PowerPoint, the Under Secretary for Constitutional

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and Mainland Affairs ("USCMA") and the Chief Electoral Officer ("CEO") of the Registration and Electoral Office ("REO") briefed members on the major findings and recommendations in the Electoral Affairs Commission ("EAC") Report on the 2019 District Council Ordinary Election ("the Report"), details of which were set out in the Administration's paper [LC Paper No. CB(2)676/19-20(03)].

(Post-meeting note: the PowerPoint presentation materials were issued vide LC Paper No. CB(2)726/19-20(01) on 18 March 2020.)

Discussion

Incidents of violence before and during the election

5. Ms Starry LEE, Mr MA Fung-kwok and Mr Holden CHOW considered that the fairness and impartiality of the 2019 District Council ("DC") Ordinary Election had been seriously undermined by the spate of violent incidents that occurred before and during the election. They expressed dissatisfaction that despite having received a large number of related complaints, EAC did not mention at all in the Report the impact of these violent incidents on the fairness of the election and what measures it would take to ensure that the upcoming 2020 Legislative Council ("LegCo") General Election ("the upcoming LegCo election") would be conducted in a fair and just manner. These members stressed that EAC had the responsibility to ensure that election activities were conducted openly, fairly and honestly throughout the election period. Dr Priscilla LEUNG requested the Administration to seriously consider whether the upcoming LegCo election should be held as scheduled if violent incidents occurred again during the run-up to the election.

6. USCMA said that EAC had stated in the prologue of the Report that the 2019 DC Ordinary Election had encountered unprecedented challenges and was conducted under extremely difficult circumstances. EAC had also explained that it had repeatedly called upon the public to cherish the fine election culture of Hong Kong and had maintained close liaison with relevant government departments before the election to ensure that the election could be held in a peaceful and safe environment, and that it must rely on law enforcement agencies ("LEAs") to enforce the law against criminal offences as well as illegal and corrupt conduct. If a candidate or an elector considered that the social circumstances had caused any unfairness to the conduct of election activities, he/she might, in accordance with the District Councils Ordinance (Cap. 547) ("DCO"), question the

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result of the election by way of an election petition ("EP"). USCMA further said that as stated in Chapter 12 of the Report, against the background of successive incidents undermining the public order and peace in society, the total number of complaints received in relation to the 2019 DC Ordinary Election was the highest ever. Details of the complaints received and the outcome of investigation were set out in Appendices VI and VIII to the Report. USCMA stressed that while the Report did not include a dedicated chapter to discuss the impact of the violent incidents on the election, the issue was addressed in different parts throughout the Report. That said, he would relay members' views in this regard to EAC for its consideration.

7. USCMA further explained that as provided for in the law, the entire election might be postponed or the poll or count might be adjourned, if the Chief Executive was of the opinion that the election or poll/count was likely to be obstructed, disrupted, undermined or seriously affected by riot or open violence or any danger to public health or safety. USCMA assured members that the Administration and EAC would closely monitor the situation and make the best endeavour to ensure that the upcoming LegCo election would be conducted in a fair, open and honest manner in accordance with the law.

Queuing arrangements in polling stations

8. Ms Alice MAK said she noted that some Presiding Officers ("PROs") had allowed elderly electors and electors with mobility difficulties to enter the polling stations to vote with priority, while some other PROs had not. She expressed concern that the different approaches adopted by PROs in handling the queuing arrangement had caused confusion to electors. She urged EAC to promulgate clear guidelines on the facilitation measures for electors with special needs in the upcoming LegCo election.

9. USCMA said EAC had noted that there were suggestions that electors with special needs should be allowed to vote with priority. EAC appreciated that caring for people with special needs was a value that a civilized and caring society ought to embrace. As such, EAC had recommended that in future elections, PROs might make arrangements to facilitate electors with special needs (e.g. senior citizens aged 70 or above, pregnant women and physically handicapped persons with mobility difficulties) to vote, or even to vote with priority. EAC was seeking public views on the proposal to set up a dedicated queue for electors with special needs through public consultation on the Proposed Guidelines on

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Election-related Activities in respect of the Legislative Council Election ("the Proposed Guidelines").

10. Mr Holden CHOW and Dr Priscilla LEUNG expressed support for the proposal for priority voting, which in their view could help ensure that elderly electors who were unable to queue for a long time due to their physical condition would not be deprived of their right to vote. Pointing out that some polling stations (such as those in villages) might be set up at less spacious or accessible venues, Mr LEUNG Che-cheung expressed doubt as to whether it was technically feasible to arrange a dedicated queue for electors with special needs to obtain the ballot papers and cast their votes in such small polling stations.

11. USCMA said that every elector, irrespective of his/her physical condition, should have an equal opportunity to vote. The proposal to set up a dedicated queue aimed to address the problem that some electors might be deprived of the opportunity to vote simply because they had difficulties in queuing for a long time due to their physical condition. He said that EAC would take into consideration members' views and comments in formulating the way forward.

12. Mrs Regina IP queried why public views needed to be sought on the proposal for priority voting, which in her view was concerned primarily with administrative arrangements that facilitated electors with special needs to vote. She considered that the Administration should have full discretion in deciding on the queuing arrangements to be adopted at polling stations having regard to the actual situation. She urged that relevant arrangements be put in place to facilitate electors with special needs to vote in the upcoming LegCo election. USCMA explained that as it was prescribed in the law that the public should be consulted in relation to the guidelines, EAC would gauge public views on the proposal.

13. Mr LAM Cheuk-ting expressed concern that the proposal for priority voting might create tension and conflicts between electors with special needs and other electors, thus making it even more difficult to maintain order at polling stations. He suggested that an elector who had difficulties in queuing for a long time due to his/her physical condition could request assistance, and PRO might mark the elector's position in the queue and allow him/her to sit aside and wait. When it came to the elector's turn, he/she would then be allowed to collect the ballot paper. He considered that the aforesaid arrangement would strike a balance between facilitating electors with special needs and ensuring fairness in the polling arrangements.

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He queried the justification for allowing electors with special needs to vote with priority. Mr CHU Hoi-dick concurred that caring for electors with special needs did not mean that they should be allowed to vote with priority. He considered that other arrangements (e.g. providing chairs, drinks and a sheltered place for electors with special needs to wait for their turn to vote; and arranging live broadcast of the queuing situation at individual polling stations for electors' viewing at home so as to facilitate their decision on when they should go to their assigned polling station to vote) could be made instead to facilitate electors with special needs to vote.

14. USCMA explained that the recommendation made by EAC in respect of the queuing arrangements was two-pronged. Firstly, it reviewed the current arrangement of the order of electors' entries in the register and the distribution of work among the ballot paper issuing desks, and explored how to make the workload at the issuing desks more even, so as to speed up the voting process and channel the flow more effectively. Secondly, it made arrangement to facilitate electors with special needs to vote, or even to vote with priority. USCMA said that EAC would carefully consider the views and suggestions received and then decide how to deal with the queuing arrangements in future elections.

15. In reply to Mr CHU Hoi-dick's enquiry about the first recommendation in paragraph 14 above, CEO explained that currently, the register of electors was arranged according to the alphabetical prefix of the Hong Kong Identity Card ("HKID") number of the electors. Depending on the number of issuing desks and the distribution of the HKID numbers of the electors of a particular polling station, each ballot paper issuing desk would specifically handle those electors belonging to certain alphabetical prefixes in the HKID number. CEO said that REO was considering whether more flexible arrangements could be made in the distribution of work among the issuing desks such that the voting process could be expedited. For instance, PRO might redistribute the work among different issuing desks having regard to the number of electors queuing up at the relevant issuing desks.

16. Noting from paragraph 13.45 of the Report that the number of issuing desks in a polling station would depend on the number of electors assigned to that polling station, Mr Jeremy TAM asked about the current issuing desk-to-electors ratio. CEO said that in the 2019 DC Ordinary Election, one issuing desk was in place for every 1 500 electors. Mr TAM asked whether REO would consider adjusting the issuing desk-to-electors ratio to, say, 1:1 200, and recruiting more polling staff to assist with the ballot paper issuing work. He considered that this would obviate the need for arranging

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a dedicated queue for electors with special needs, which in his view might result in other electors having to wait for even longer to collect the ballot papers and cast their votes. CEO said that subject to availability of sufficient space in polling stations and sufficient polling staff, REO aimed to adjust the issuing desk-to-electors ratio to 1:1 300 in the upcoming LegCo election.

17. Dr KWOK Ka-ki and Dr Helena WONG considered that not enough polling stations had been set up in the 2019 DC Ordinary Election. Dr KWOK considered that had more polling stations been set up and more polling staff been recruited in the 2019 DC Ordinary Election, electors would not have had to queue for a long time to vote. He asked whether the Administration would apologize to the public for its poor arrangements for the election. USCMA said that as explained in the Report, in the morning of the polling day of the 2019 DC Ordinary Election, about 720 000 electors turned up to vote within the first three hours after the opening of polling stations, which was three times the voter turnout of the same period of time in the last DC ordinary election. As a result, long queues of electors appeared at many polling stations. In the light of this, EAC had recommended that improvement measures be adopted in future elections to channel the flow of electors more effectively.

18. Mr LUK Chung-hung considered that apart from high voter turnout, a major cause of the long queues of electors on the polling day was that some electors queued up repeatedly in a bid to deter other electors from casting their votes. Mr Alvin YEUNG asked if the Administration had ascertained the extent of the "repeated queuing" problem. CEO replied that in respect of the 2019 DC Ordinary Election, EAC had received 158 complaints about "repeated queuing". EAC had completed investigation into 134 cases, of which six had been referred to LEA with the complainants' consent for further action, 128 could not be proceeded further without the complainants' consent, and the rest were to be followed up.

19. Mr Alvin YEUNG said that as compared with the 2016 LegCo General Election, the number of registered electors had increased by 9% but the number of polling stations had only increased by 6% in the 2019 DC Ordinary Election. He asked whether efforts had been made to increase the number of polling stations. The Deputy Secretary for Constitutional and Mainland Affairs ("DSCMA") replied that in view of the record high number of 1 090 validly nominated candidates and the fact that all of the 452 constituencies were contested, REO had stepped up efforts to identify and acquire more suitable venues for the setting up of polling stations and

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recruit more polling staff for the 2019 DC Ordinary Election. However, owing to the ongoing social events before the election, many civil servants had withdrawn their applications to serve as polling staff and some venue management bodies had declined to make available their venues for use as polling stations out of safety concerns. DSCMA said that REO had endeavoured to appeal to the venue management bodies time and again to lend their venues and had taken out public liability insurance for all venues to be used as polling stations to allay their concerns. USCMA pointed out that all along, it was not easy to acquire venues for use as polling stations as some venue management bodies (e.g. schools) might not be willing to make available their premises for REO's use lest the premises could not be returned to them in time in the morning following the polling day. That said, REO would continue to make sustained efforts in identifying and securing more suitable venues for the setting up of polling stations in future elections.

20. Dr Helena WONG opined that the Administration should consider making it a statutory requirement for government schools and government-subsidized schools to make available their premises for use as polling stations. Dr KWOK Ka-ki asked whether the Administration would double the number of polling stations to be set up and the number of polling staff to be recruited in the upcoming LegCo election. USCMA responded that REO would learn from the experience gained in the 2019 DC Ordinary Election and make the best efforts to provide as many polling stations and polling staff as necessary and practicable in the upcoming LegCo election.

Polling and counting arrangements

21. Mr MA Fung-kwok said that he was disallowed by the polling staff to check whether his particulars on the register of electors had been crossed out after he had been issued with the ballot paper. USCMA explained that a board was placed in front of the issuing desk in order to protect the secrecy of whether individual electors had applied for a ballot paper. He said that to allay electors' concerns and to refine the ballot paper issuing procedures, EAC had recommended enabling electors to witness the crossing out of their own entries in the register by the polling staff upon their collection of ballot papers without seeing the information of other electors on the register. Mr LUK Chung-hung suggested that as a further step to guard against impersonation in voting, consideration should be given to using mobile phone short message service to notify the elector after a ballot paper had been issued to him/her.

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22. With reference to Appendix VI(B) to the Report, Mr CHU Hoi-dick and Mrs Regina IP expressed concern that a total of 56 complaints about impersonation in voting were received during the complaint-handling period of the 2019 DC Ordinary Election. Mr CHU enquired about the details of these complaint cases and the follow-up actions taken. CEO said that the electors concerned had complained that when they applied for ballot papers at their assigned polling stations, they were informed by the polling staff that the ballot paper had already been issued to another person assuming the same identity earlier on and they were issued only with a "tendered" ballot paper which would not be counted towards the election result. CEO further said that among these 56 complaint cases, one case had been referred to LEA for follow-up with the complainant's consent. EAC was collecting evidence and seeking consent for referral from the complainants of four other cases, while the remaining 51 cases were still under investigation by EAC.

23. Mrs Regina IP suggested using fingerprint scanners to verify electors' identity in the ballot paper issuing process. USCMA responded that as the procedures of issuing ballot paper to electors were stipulated in the law, the suggested change to the existing arrangements would require legislative amendments.

24. Ms Alice MAK, Mr LUK Chung-hung and Dr Priscilla LEUNG expressed concern that due to overcrowding and disputes in some counting stations after the close of poll, some candidates and their agents were unable to monitor the counting of votes or leave the counting station until in the following afternoon. Ms MAK asked what measures would be taken to improve the maintenance of order in counting stations in the upcoming LegCo election. Mr LUK considered that measures should be put in place to ensure that candidates and their agents would be able to monitor the counting of votes if they so wished. He also asked whether the Administration would consider video-recording the vote counting process so as to guard against fraudulent acts and enhance the public's confidence in the credibility of the election.

25. USCMA said that EAC had examined in detail the circumstances leading to the occurrence of chaos in some counting stations and had put forward a number of recommendations to improve the crowd control and maintenance of order in counting stations in future elections. For instance, EAC had recommended specifying the maximum capacity of the area for members of the public to observe the counting of votes in a counting station and recording the names of members of the public who entered the counting

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station. EAC had also recommended looking into the staff and equipment for video-recording the entire counting process in the counting zone so as to assist LEAs with gathering the necessary evidence in future. Dr Priscilla LEUNG expressed support for restricting the number of members of the public to be admitted to the counting station. USCMA responded that EAC would gauge public views on the relevant proposed arrangements.

26. Mr LEUNG Che-cheung recalled that when he observed the counting of votes at some counting stations, the counting staff cheered loudly upon the announcement of the election result. He questioned whether relevant training and guidelines had been provided to the polling and counting staff to ensure that they would carry out the electoral duties impartially. USCMA said that upholding neutrality and impartiality in discharging electoral duties was a basic requirement that must be complied with by any electoral staff. Information of any specific cases could be provided to REO for follow-up. Mr MA Fung-kwok said that he recalled seeing the PRO of his assigned polling station working jointly with some people who falsely represented themselves as polling staff on the polling day, which in his view was highly inappropriate. He had lodged a complaint with REO but no response had been received so far. USCMA undertook to have the case followed up after the meeting.

27. Dr Helena WONG expressed grave concern that the number of ballot papers actually counted at a counting station in the Kwai Fong Constituency ("KFC") was found to be even more than the cumulative voter turnout of the constituency and there was a discrepancy of 60 ballot papers. She considered that the incident must have involved fraudulent acts, which in her view had seriously undermined the fairness and integrity of the election. She asked what measures would be taken to prevent recurrence of similar incidents in future elections.

28. USCMA dismissed any allegation that the 2019 DC Ordinary Election was not a fair election. He stressed that EAC, as an independent statutory body, had stated clearly in the Report its view that the election was on the whole conducted in an open, fair and honest manner. As regards individual incidents that occurred at the polling and counting stations on the polling day, USCMA said that EAC had provided a detailed account of those incidents and set out its recommendations on areas for improvement in the Report. CEO informed members that among the 615 ordinary polling and counting stations set up in the election, the counting station referred to by Dr WONG was the only one at which the statistics of ballot papers actually counted exceeded the estimated cumulative voter turnout. CEO said that since the

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incident might have involved illegal conduct, REO had referred the case to LEA for investigation according to the established procedures.

29. Dr CHENG Chung-tai expressed dissatisfaction that EAC had merely referred the case to LEA and queried how LEA would follow it up. Mr CHAN Han-pan also expressed concern that despite the aforementioned discrepancy, the election result of KFC had been declared as valid. He asked whether EAC would seek to challenge the election result of KFC in court so as to restore the public's confidence in the integrity and fairness of the electoral system.

30. CEO explained that as it could not be ruled out that the ballot boxes concerned might have been interfered with, the case had to be referred to LEA for further investigation and follow-up. USCMA informed members that REO had sent letters to inform the candidates of KFC about the incident and remind them that they could question the election result by lodging an EP under section 49 of DCO. As far as it was known, no EP had been lodged in relation to the election result of KFC. USCMA added that according to the election result of KFC, the elected candidate won by more than 1 000 votes.

Application of information technology in the election process and other issues

31. While noting EAC's recommendation that computerization of the electoral process should be the way forward and that REO should continue to carry out relevant studies, Mr MA Fung-kwok expressed disappointment that little progress had been made in this regard. He asked whether relevant arrangements would be implemented in the upcoming LegCo election. Mr Holden CHOW also asked when the Administration would introduce computerization of the election process, which included issuing ballot papers in an electronic manner, electronic voting as well as electronic vote counting.

32. USCMA said that the Administration had been proactively studying ways to electronize different stages of the election. USCMA informed members that REO was currently conducting a detailed study on the use of electronic register of electors with a view to enhancing the efficiency when issuing ballot papers. However, various practical issues had yet to be resolved, such as the fallback arrangements in the event of malfunctioning of the electronic register. Besides, public confidence in the relevant arrangements would be a consideration. USCMA further informed

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members that after consulting the Panel in the last legislative session, the Administration aimed to conduct a demonstration of electronic vote counting in some traditional functional constituencies in the upcoming LegCo election. However, there might be difficulty in launching the demonstration in time as the relevant work had been substantially delayed owing to the outbreak of COVID-19.

33. With reference to paragraph 13.111 of the Report, Ms Alice MAK sought confirmation on whether all registers of electors for the 2019 DC Ordinary Election were currently in REO's safe custody. USCMA said that after the loss of a register of electors relating to the 2016 LegCo General Election became known in April 2019, EAC conducted a comprehensive investigation into the incident and published a report in July 2019 putting forward a number of recommendations to improve the procedures for handling electoral documents. REO had implemented improvement measures on the packing, delivery and storage of electoral documents in the 2019 DC Ordinary Election having regard to EAC's recommendations.

34. Mr CHAN Han-pan expressed concern that some persons who advocated and promoted "Hong Kong independence" had been allowed to stand as candidates in the 2019 DC Ordinary Election. In his view, these persons could not possibly comply with the legal requirement for a candidate to uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region ("HKSAR").

35. USCMA said that under DCO, a candidate was required to make a declaration in the nomination form to the effect that he/she would uphold the Basic Law and pledge allegiance to HKSAR. The Returning Officer ("RO") would determine whether the aforesaid declaration made by a candidate was genuine, thereby deciding whether the relevant nomination was valid. Depending on the circumstances of each case, RO might seek legal advice and might, where necessary, require the candidate to furnish additional information that he/she considered appropriate, so as to satisfy himself/herself as to the eligibility of the candidate or the validity of the nomination.

36. With regard to the 2019 DC Ordinary Election, Mr KWONG Chun-yu asked whether any vote-rigging case had been identified. CEO said that as at 4 March 2020, REO had dealt with 860 complaints of suspected vote-rigging received in the 2019 voter registration ("VR") cycle. Among the 2 059 electors involved, REO had verified the registered addresses of 1 990 electors and found that 1 888 of them contained no suspicious grounds

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for further follow-up action. The inaccuracies detected in most cases were mainly due to clerical errors made by electors in completing the VR form (e.g. inadvertently entering the wrong floor number) or failure of electors to provide REO with an updated registered address in a timely manner after moving home. CEO further said that REO had referred 102 cases to LEAs after completion of the inquiry process. Among those 102 cases, 47 were found to be unsubstantiated and 55 were still under investigation.

IV. Proposed Guidelines on Election-related Activities in respect of the Legislative Council Election issued by the Electoral Affairs Commission

[LC Paper Nos. CB(2)670/19-20, CB(2)676/19-20(05) and (06)]

37. With the aid of PowerPoint, CEO briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)676/19-20(05)].

(Post-meeting note: the PowerPoint presentation materials were issued vide LC Paper No. CB(2)726/19-20(02) on 18 March 2020.)

Discussion

Proposed queuing arrangement for electors with special needs

38. Dr CHENG Chung-tai and Mr CHAN Chi-chuen said that the Chairman of EAC, Mr Justice Barnabas FUNG Wah, had remarked during the 2019 DC Ordinary Election that no one would be offered voting priority. They questioned why EAC had now reversed its stance and recommended priority voting by electors with special needs. Dr CHENG considered that the proposed arrangement might trigger concerns about fairness. In addition to the alternative arrangements suggested by members earlier, Dr Helena WONG and Mr CHAN Chi-chuen further suggested that where warranted, PRO of a polling station might consider setting up additional ballot papers issuing desks which were assigned specifically to handle elderly electors, if it was found that the desks for this elector group were not enough at any time during an election. USCMA explained that while this suggestion could certainly be considered, the purpose of the proposed arrangement was to provide greater convenience to the elderly

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electors to show care for them. He stressed that EAC would listen to public views before taking a stance on this proposal. In response to Dr CHENG Chung-tai's concern, DSCMA pledged that the Administration would strive to deploy sufficient manpower at the polling stations in the upcoming LegCo election to cope with the anticipated high voter turnout.

39. The Deputy Chairman said that the Heung Yee Kuk was supportive of EAC's proposal that PROs might make arrangements to facilitate electors with special needs to vote, or even to vote with priority. Mrs Regina IP suggested that priority voting should also be arranged for electors aged between 65 and 69. In response to the Deputy Chairman's enquiry, CEO said that female electors in an early stage of pregnancy might be asked to present medical certificates to prove their eligibility for priority voting.

Definition of "candidate" and contingency plan

40. Members noted that in paragraph 16.8 of the Proposed Guidelines, persons who intended to stand as candidates at an election were reminded to note the definition of the term "candidate" under the electoral law. Ms Claudia MO, Mr LAM Cheuk-ting, Dr Helena WONG, Ms Starry LEE and Mrs Regina IP expressed grave concern that the relevant Proposed Guidelines had only made the definition of "candidate" become unclear. In particular, they asked whether a person taking part in an internal "primary election" held by his/her political party would be regarded as a "candidate" under the provisions relating to "election expenses" in the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO"). Mr Alvin YEUNG questioned the need for and the purpose of the above proposed changes to the relevant Guidelines. Mr CHU Hoi-dick was concerned whether the relevant criteria for law enforcement had been changed since the 2016 LegCo General Election.

41. CEO explained that in previous LegCo elections, some persons had publicly declared their intention to stand as candidates before the close of nominations but had never submitted their nomination forms, or had withdrawn their nominations after submission of the nomination forms. REO subsequently had to request these persons to submit their election returns in accordance with ECICO. Therefore, EAC considered that it had the

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responsibility to remind prospective candidates in the Proposed Guidelines that they must exercise due care to avoid incurring any legal liability inadvertently.

42. USCMA explained that as stipulated in ECICO, the term "candidate" included a person who had publicly declared an intention to stand as a candidate at an election before the close of nominations for the election. Whether a person taking part in an internal "primary election" would be regarded as a "candidate" at the relevant election or not would depend on all the circumstances and factual evidence involving that person in the relevant course, not solely on that person's self-expressed statement or explanation, because whether that person had publicly declared an intention to stand for election was to be determined on the basis of substance and not form. USCMA reassured members that the legal definition and the relevant criteria for law enforcement had not been changed. USCMA further said that a person who publicly declared that he/she would be taking part in an internal "primary election" could be regarded as indicating intention to stand as a candidate at an election depending on all the circumstances and factual evidence. Some members, however, queried whether a person who was reported by the media, on the basis of hearsay or rumour, to take part in an internal "primary election" should be regarded as having publicly declared an intention to stand as a candidate at an election. USCMA said that members' concerns about what constituted "to have publicly declared" were noted and would be relayed to EAC for consideration. Ms Starry LEE expressed concern that with the above proposed changes to the Guidelines on the definition of the term "candidate", the nurturing of political talents and the long-term development of political parties in Hong Kong would be hindered. USCMA said that the Administration would also relay members' views and concerns in this regard to EAC for consideration.

43. Mr CHAN Chi-chuen urged the Administration to come up with a detailed contingency plan for the upcoming LegCo election in the light of the prevailing situation of COVID-19 pandemic in Hong Kong. In his view, the plan should include the arrangements to be made under all possible scenarios (e.g. in the event that the election had to be postponed for a prolonged period of time due to the pandemic situation), the voting arrangements for electors under compulsory quarantine, and whether only electors wearing masks/with

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normal body temperatures would be allowed to enter the polling stations to vote. Mr CHAN urged the Administration to come up with the relevant detailed arrangements as soon as possible for discussion with Members and for public consultation. USCMA said that the Administration would consider Mr CHAN's views in drawing up the contingency arrangements for the upcoming LegCo election.

(At 4:28 pm, the Chairman directed that the meeting be extended by 15 minutes beyond the appointed ending time.)

44. Ms Starry LEE reiterated her concern about actions to be taken to deal with any violent incidents that might occur during the upcoming LegCo Election. In response to Ms LEE's concern, USCMA said that the Administration had provided a paper to the Panel in October 2019 on the contingency plan for the 2019 DC Ordinary Election, which had set out the mechanism and considerations for postponement/adjournment of an election for members' reference.

(At 4:41 pm, the Chairman suggested and members agreed that the meeting be further extended to allow sufficient time for all the members who had requested to speak to raise their questions and for the Administration to respond to those questions.)

Motions

45. The Chairman said that four motions had been proposed by Ms Starry LEE, Mr Alvin YEUNG, Mr CHAN Han-pan and Dr Helena WONG respectively. The Chairman further said that due to the shortage of time, the proposed motions would be dealt with at the next meeting. The Chairman added that at the next meeting, he would only invite members to vote on the proposed motions but would not allow any more time for further discussion of the motions. Members agreed to these arrangements.

(Post-meeting note: the relevant proposed motions were attached to the agenda for the next regular meeting.)

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V. Any other business

46. There being no other business, the meeting ended at 4:52 pm.

Council Business Division 2
Legislative Council Secretariat
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