

立法會 *Legislative Council*

LC Paper No. CB(4)1122/20-21(04)

Ref : CB4/PL/CA

Panel on Constitutional Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 21 June 2021**

Practical arrangements for the 2021 Election Committee Subsector Elections

Purpose

This paper summarizes the previous discussion of the Panel on Constitutional Affairs ("the Panel") on issues relating to the practical arrangements for the 2016 Election Committee ("EC") subsector elections.

Background

2. The Electoral Affairs Commission ("EAC") is an independent statutory body responsible for the conduct and supervision of elections. In the 2016 EC subsector elections held on 11 December 2016, polling was conducted in 110 polling stations across Hong Kong. A central counting station was set up at the AsiaWorld-Expo in Chek Lap Kok.

3. In June 2017, EAC published the Report on the 2017 Chief Executive ("CE") election ("the Report") [LC Paper No. CB(2)1777/16-17] which describes how EAC conducted and supervised the 2016 EC subsector elections and the 2017 CE election. The Report also contains a review on the electoral arrangements in the light of the experience gained from the two elections and improvement measures recommended for future elections. The recommendations made by EAC based on the experience gained from the 2016 EC subsector elections are extracted in **Appendix I**.

Issues of concern of the Panel

4. The Panel discussed the practical arrangements for the 2016 EC subsector elections at its meeting on 16 May 2016. The major concerns expressed by members are summarized below.

Election advertisements

5. Some members enquired whether a candidate of EC subsector elections could state in his/her election platform and election advertisements ("EAs") that the incumbent CE should step down or not to seek re-election, and whether a specimen of election mail containing such election platform would be accepted for free postage. The Administration advised that the general requirement was that the content of an EA had to be lawful and, at present, there were no specific requirements under the electoral law with regard to the content of an EA. Some members urged the Registration and Electoral Office ("REO") to explore the possibility of providing guidelines on the content of EAs for reference by candidates.

6. In response to a member's enquiry about the incident in which a specimen of the election mail submitted by a candidate of the 2016 Legislative Council ("LegCo") New Territories East Geographical Constituency By-election was not accepted for free postage, the Administration explained that REO had the responsibility to ensure that the arrangement of free postage provided by the Government would not involve any unlawful act. Besides, as required by the Legislative Council Ordinance (Cap. 542), all candidates must declare in the nomination form that he/she would uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region. In the above incident, REO had sought legal advice from the Department of Justice ("DoJ"). According to the legal advice of DoJ, the relevant contents would most probably amount to an indication that the candidate was acting against the Basic Law and the contents of the declaration. The Administration informed members that as the candidate concerned had filed an application for judicial review in respect of the case, REO would follow up after the Court had made a ruling on the case.

7. Noting that REO would continue the practice of providing, upon request, each validly nominated candidate with a computer disc containing voters' mailing information and email addresses (if provided) to facilitate the sending out of EAs by candidates, some members expressed concern about what actions the Administration would take to ensure that the computer disc was destroyed by candidates after the elections. The Administration advised that REO would continue to include a printed message on the paper cover of the disc to remind candidates that the personal information of voters could only be used for the purpose of electioneering activities in the 2016 EC subsector elections and the computer disc must be destroyed after the elections. Candidates would be required to sign an undertaking in this regard and REO would draw to their attention the legal consequences of not taking heed of REO's reminder.

Polling and counting arrangements

8. Some members were of the view that the polling hours (from 7:30 am to 10:30 pm) of past EC subsector elections were quite long. They considered that as the electorate of EC subsectors only involved some 240 000 voters, consideration might be given to shortening the polling hours by advancing the closing time of the poll to, say, 6 pm so as to save manpower. These members requested the Administration to conduct an opinion poll to ascertain whether the proposal of shortening polling hours had the general support of LegCo Members and political parties. Some other members suggested that public consultation could be conducted first before introducing changes to any electoral arrangements such as polling hours.

9. The Administration explained that while it was noted that the polling hours were shorter in some other places such as Japan where the poll started at 8:30 am and ended at 8 pm, members had expressed diverse views on whether the polling hours should be shortened when the subject matter was discussed by the Panel in the previous election cycle. The Administration advised that REO would listen to the views of LegCo Members in reviewing whether the polling hours for EC subsector elections should be revised.

10. In response to some members' suggestion that the number of polling stations could be reduced given the relatively small electorate size of EC subsector elections, the Administration advised that REO planned to set up about 110 polling stations for the 2016 EC subsector elections (i.e. about 2 200 voters on average would be assigned to each polling station). The Administration explained that in order to facilitate voters to vote in the elections, REO had no plan to reduce the number of polling stations.

Publicity measures

11. Some members called on the Administration to step up publicity on the composition of EC to raise public awareness of the representativeness of EC. The Administration advised that apart from conducting voter registration campaign, publicity would be stepped up in election years to encourage all registered voters to cast their votes in relevant elections. Publicity efforts would be made to convey the message and information to the public at large. In response to a member's suggestion that the publicity efforts should target all the constituents of the 38 subsectors of EC,¹ the Administration explained that

¹ According to the Improving Electoral System (Consolidated Amendments) Ordinance 2021 which came into effect on 31 May 2021, the number of EC subsectors has been increased to 40.

publicity would be made through the mass media to publicize the 2016 EC subsector elections, and publicity leaflets would be distributed through the relevant organizations/bodies in respective subsectors to encourage voters to turn up for voting.

Recent development

12. The Administration will brief the Panel on the practical arrangements for the 2021 EC subsector elections at the meeting on 21 June 2021.

Relevant papers

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

Council Business Division 4
Legislative Council Secretariat
16 June 2021

CHAPTER 14

REVIEW AND RECOMMENDATIONS

Section 1 – A General Remark

14.1 The EAC considers that the 2016 ECSS Ordinary Elections and the 2017 CE Election have 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 all aspects of the electoral procedures and arrangements 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.

Section 2 – Review and Recommendations

(I) The 2016 ECSS Ordinary Elections

(A) Identification of Suitable Venues as Polling Stations and Relevant Polling Arrangements

14.2 In the 2016 ECSS Ordinary Elections, the REO has set up a total of 110 OPSs for voters to cast their votes. As the number of voters for this election was less than that for the 2016 LegCo General Election, fewer polling stations were required to be set up. Hence, there was a wider choice of venues that could be used as polling stations. Over 90% of the polling stations could be set up at more spacious venues, including schools, recreational and sports facilities of the Leisure and Cultural Services Department or community halls of

the HAD, etc. Generally speaking, the requisition of venues for use as polling stations was smooth.

14.3 As there was a large number of candidates in the subsector elections, it was expected that the voters would need more time to mark their ballot papers in the voting compartment. To avoid queuing up at polling stations, the REO had increased the number of voting compartments at all polling stations in advance and deployed extra manpower to assist in maintaining order and completing the statistical returns, etc. Besides, with the exception of 7 polling stations located at relatively remote locations, the REO has arranged for CAS members to go on duty at the polling stations to assist in maintaining order on the polling day.

14.4 On the polling day, there were queues at times (of not more than 20 voters) at individual polling stations for short periods waiting for entering the voting compartments. Upon notice of such situation, the REO has immediately deployed extra manpower to those polling stations and/or set up additional voting compartments there in order to ease the flow of voters as soon as possible. The REO has set up a total of 32 additional voting compartments at 10 polling stations and deployed 8 members of reserve polling staff to provide support at 4 polling stations on the polling day.

14.5 **Recommendation:** The EAC is generally satisfied with the venue and polling arrangements of this election and is of the view that the REO should continue to make efforts to identify and secure venues with sufficient space to accommodate electors for use as polling stations in future elections. The EAC appeals to the management of individual venue for the generous support in

lending the venues for use as polling stations. The REO should also closely monitor the actual situation on the polling day and make timely deployment of reserve manpower and resources to the polling stations if necessary to ensure the smooth conduct of the poll.

(B) Low Submission Rate of Text Version of Introduction to Candidates

14.6 In order to assist electors with visual impairment to read the election platforms in the Introduction to Candidates, the REO has encouraged the candidates to provide a computer-typed text version of their Introduction to Candidates for uploading onto the election website since the 2012 LegCo General Election. The text version contains the candidate number, name, age, occupation, political affiliation, email address or website and the election platform of the candidates. Electors with visual impairment will be able to read the contents of the Introduction to Candidates with the aid of computer software. Taking the LegCo elections as example, 91%, 100% and 55% of the candidates submitted a text version of their Introduction to Candidates in the 2012 LegCo General Election, the LegCo By-election (New Territories East Geographical Constituency) held in February 2016 and the 2016 LegCo General Election respectively. However, in this election, of the 1 527 validly nominated candidates who provided their Introduction to Candidates manuscript (i.e. “grid paper”), only 228 (about 15%) submitted a text version of their Introduction to Candidates in this election. The percentage was noticeably lower when compared with those in the aforementioned LegCo general elections/By-election.

14.7 **Recommendation:** As candidates in the subsector elections may not necessarily have the experience in standing for the LegCo election or DC election, it is probable that they may not have much knowledge about the text version of Introduction to Candidates. In order to allow voters with visual impairment to have access to the relevant information, the REO should continue to encourage and remind candidates in the subsector elections to provide a text version of their Introduction to Candidates. If necessary, the REO may consider introducing other measures, such as stipulating in the Guidelines that candidates must submit a text version of the relevant information when submitting their election platform in the Introduction to Candidates. In addition, the REO may consider enhancing its publicity to those with visual impairment that they may call the REO hotline for access to the relevant information if necessary.

(C) Poll Card and Postage-free Election Mail

14.8 There were candidates relaying to the media cases of voters not receiving their poll cards, and also cases of voters not receiving election mails from certain candidates before and on the polling day.

14.9 Under the EAC (EP) (EC) Reg, for every contested subsector election, poll cards must be sent to voters and ARs at least 5 days before the polling day. In respect of this election, the nomination period ended on 14 November 2016, which was less than 1 month away from the polling day. The REO was required to arrange printing of the poll cards, Introduction to Candidates and relevant electoral documents and to engage service providers to put into the envelope and post the poll cards and relevant electoral documents under a very

tight timetable. The REO has in fact encountered difficulties in completing the abovementioned tasks in the tight timeframe. More than 240 000 copies of poll cards and the relevant polling information were posted by the REO in separate batches by 2 December 2016 (i.e. 9 days before the polling day), and delivery of the last batch was completed on 7 December 2016 (i.e. 4 days before the polling day) by the Hongkong Post.

14.10 The EAC received a total of 6 complaints on not receiving the poll card. The complainants in two of the cases have subsequently indicated that they have received the poll cards before the polling day. As the registered addresses of electors of the remaining 4 complainants were the same as the mailing addresses printed on their poll cards sent by the REO, they should have received the poll cards before the polling day in the ordinary event. Hence, the reason why the complainants did not receive their poll cards in the end could not be established.

14.11 As to the voters not receiving election mails from some of the candidates, since the Introduction to Candidates published by the REO and sent to each voter with the poll card would contain the information of all the candidates of the same subsector/sub-subsector, the abovementioned election mails must not be the Introduction to Candidates but were the election mails sent by individual candidates.

14.12 According to the legislation, each candidate is allowed to send free of postage one letter to the voters of the relevant subsector. The posting deadline for the postage-free election mails was 1 December 2016. Due to the large volume of mails which had to be handled during the election period, Hongkong

Post had on the relevant form reminded the candidates that it was very likely that election mails posted after the deadline could not be delivered to the addressees before the polling day. According to Hongkong Post's records, 43 candidates in total have nevertheless posted their postage-free election mails between 1 to 8 days after the deadline. Except for 1 candidate who posted his/her last batch of mails on 9 December 2016, all postage-free mails were delivered on or before 8 December 2016 (the last batch of mails posted on 9 December 2016 was delivered on 10 December 2016).

14.13 According to REO's records, only 320 validly nominated candidates (i.e. about 21% of all validly nominated candidates) have used the postage-free election mail service. Since some candidates would not use the postage-free election mail service, voters would not receive the election mails sent by them. Moreover, in line with the established practice, each candidate may request from the REO a set of address labels of voters and ARs of the relevant subsector for the purpose of posting postage-free election mails. Due to environmental protection consideration, the REO would not provide address labels to candidates for sending hard copy of their election mails if the voters and ARs have provided their email addresses for receiving candidates' election mails. Observation on the relevant complaints received is that some candidates and voters seemed to be unaware of the above arrangements (despite the fact that such arrangements have been set out in paragraph 8.79 of the ECSS Elections Guidelines, the Notice for Collection of Voters' Information and packing of the address labels). This might lead to the misunderstanding that there was a delivery problem resulting in some voters not receiving the election mails.

14.14 **Recommendation:** The EAC considers that the incidents of voters not receiving poll cards in this election are isolated cases. They made up a very small proportion of the number of more than 240 000 poll cards. Although the causes of the non-delivery could not be ascertained, the REO should continue to ensure that voters' correct addresses are printed on poll cards and take swift action in handling and delivering the poll cards.

14.15 The two cases in which the complainants complained about not receiving poll cards as early as at the beginning of December 2016 and had later confirmed that their poll cards were received before the polling day show that this election was of particular concern to the complainants. Indeed, they might not have realised that under the relevant legislation, poll cards for this election are to be sent out at least 5 days before the polling day as against at least 10 days before the polling day as required for the LegCo elections and DC elections. In any case, the incident shows the desire of voters and the general public for receiving the polling information soonest possible. The REO should consider enhancing publicity on the delivery arrangements of poll cards in future ECSS elections to allay the public concern. Besides, although the mailing of poll cards was completed 9 days before the polling day, the delivery of the last batch of poll cards was completed only 4 days before the polling day. The REO should discuss with the relevant service providers and the Hongkong Post for further improvement of the relevant arrangements, for example, earlier mailing by batches, and to discuss with Hongkong Post the deployment of manpower during the peak period so that priority would be given to handling mails containing the poll cards so that the delivery could be completed at least 5 days before the polling day. The REO should also strengthen the publicity on the Online Voter Information Enquiry System so that the public would be aware that

they can use the system to check the polling information, such as the names, addresses and location maps of the polling stations assigned to them as well as the date and time for the poll. Registered voters who are eligible for casting a vote in their respective contested subsector elections should also be reminded that they could still be able to vote by presenting their Hong Kong Identity Card even if they have not received poll card. In addition, the REO may also review the timetable under the existing electoral laws and/or arrangements to see if there is any room for adjustment, for example, to consider advancement of the nomination period so that the period between the last day of the nomination period and the polling day could be slightly prolonged with a view to allowing more time for handling the work relating to the mailing of poll cards.

14.16 The Hongkong Post is understood to have made its best endeavours in delivering postage-free mails posted by the candidates at the earliest possible time. Even for election mails posted just two days before the polling day by the candidates, the delivery could still be accomplished on the following day. The EAC is satisfied with it. The REO may remind the candidates to post their election mails soonest possible before the posting deadline, so as to ensure that the voters could receive the relevant mails before the polling day and prevent any misunderstanding of delivery delay. Furthermore, the REO should remind candidates and voters that the address labels provided would not include voters who have provided their email addresses so as to avoid unnecessary misunderstanding.

(D) Determination of the Validity of Questionable Ballot Papers

14.17 In view of the experience of the 2011 ECSS Ordinary Elections, the REO has increased the number of Q-Tables at the CCS from 14 in 2011 to 20 in this election with a view to speeding up the procedures involved in handling questionable ballot papers and determining their validity. On the other hand, according to the legislation, unmarked ballot papers must not be regarded as valid and all candidates, election agents or counting agents are not entitled to make any representations concerning such ballot papers. Hence, the procedure of displaying unmarked ballot papers at Q-Tables by ROs was not necessary in this election, thereby reducing the total number of ballot papers to be handled at Q-Tables by about 19%. Generally speaking, the procedures of handling questionable ballot papers ran smoothly in this election. However, due to the increase in overall number of ballot papers by about 65% and the number of questionable ballot papers in certain subsectors was higher than in 2011, and the fact that the procedure of determining the validity of questionable ballot papers for some subsectors has only started in the latest stage of the count, hence, the counting work in this election was completed at a later time than that of 2011.

14.18 **Recommendation:** The EAC is of the view that the increase in the number of Q-Tables and the improvement in the handling procedures effectively speeded up the counting process and should continue to be adopted in future elections. Considering that the ROs of certain subsectors proceeded to determine the validity of a large number of questionable ballot papers only in the latest stage of the count, the EAC recommends that, as a way to speed up the counting work of each subsector, the REO should consider informing the ROs to determine the questionable ballot papers in rounds, and to preset the number of

questionable ballot papers that should be handled by the ROs in each round based on the voter turnout of the subsector before commencement of the count. When the number of questionable ballot papers of a subsector reaches the preset level, the RO concerned should proceed to determine the validity of the questionable ballot papers in that round so that the results of determination in each round can be recorded as soon as possible thus avoiding the handling of a large number of questionable ballot papers in the final phase of the count. In this way, the consolidation of counting results and verification work can be expedited to facilitate the prompt announcement of the election results of all subsectors.

Appendix II

Relevant documents on practical arrangements for the 2021 Election Committee Subsector Elections

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	16.5.2016 (Item IV)	Agenda Minutes
	17.7.2017 (Item II)	Electoral Affairs Commission Report on the 2017 Chief Executive Election

Council Business Division 4
Legislative Council Secretariat
16 June 2021