

CHAPTER 13

THE COMPLAINTS

Section 1 – A General View

13.1 The complaint-handling mechanism is one of the means to safeguard the fairness and integrity of the electoral system. With its experience gained from processing complaints in the past years, the EAC noticed that some complaints revealed deficiencies in certain areas of the electoral arrangements which prompted the EAC to explore and institute remedial measures that would bring about better arrangements for future elections. Complaints also provide an effective means for candidates to exercise mutual checks among themselves. The EAC has always endeavoured to handle the complaints received efficiently and fairly so as to ensure that justice is safeguarded and the complaint-handling mechanism is not abused.

Section 2 – The Election Committee Subsector Elections

13.2 The complaint-handling period started from 1 November 2006, ie the day when the nomination period commenced, and ended on 24 January 2007, ie 45 days after the polling day of 10 December 2006. Instead of setting up a Complaints Committee as in some other elections, the EAC assumed the task of handling election-related complaints for the elections. Five different parties were responsible for processing the complaints received: the EAC, ROs, Police, ICAC and, on the polling day, the PROs as well. Members of the public could lodge their complaints to any of these parties. The EAC, supported by the REO Complaints Unit, dealt with cases that were within its jurisdiction and not covered by any statutory provisions involving criminal liability. As the

complaints for the elections could be complex in nature, the EAC appointed Ms Dorothy CHENG, Senior Government Counsel from the D of J, as the legal adviser for the purpose of handling complaints relating to the elections. The ROs were delegated with the authority to handle those complaint cases that were less complicated. The Police handled cases that involved criminal liability and the ICAC attended to cases that involved breaches of the ECICO and Prevention of Bribery Ordinance (Cap 201). If the PROs received any complaints on the polling day at their respective polling stations, they would take immediate action on the spot.

13.3 By the end of the complaint-handling period, a total of 74 cases were received from the public by the EAC (32 cases), ROs (six cases), ICAC (two cases) and PROs (34 cases). Of these, 43 were received on the polling day by the EAC (eight cases), the ROs (one case) and the PROs (34 cases). There were no complaint cases received by the Police. The complaint cases were of different nature including allocation/designation of polling station, polling arrangements, false statement about a candidate, EAs etc. A detailed breakdown of these cases by the receiving party and nature is shown at **Appendices XI(A) – (B)**. The outcome of complaint cases investigated is summarised at **Appendices XII(A) – (E)**.

Section 3 – The Chief Executive Election

13.4 The complaint-handling period for the CE Election started with the commencement of the nomination period on 14 February 2007 and ended on 9 May 2007 (45 days after the polling day on 25 March 2007). The EAC directly handled complaints relating to the election. As the complaints for the election might be complex, the EAC enlisted the assistance of Ms Dorothy CHENG, Senior Government Counsel from the D of J, for legal advice as and

when necessary. The ICAC and the Police, collaborating with the EAC, also assisted in the handling of complaints within their respective purview.

13.5 During the complaint-handling period, a total of 24 complaints were received by the EAC, Police and the ICAC. Among the 18 complaint cases received by the EAC, 11 cases were about media reporting. A breakdown of all these complaint cases is set out in **Appendix XIII**. The outcome of complaint cases investigated is summarised at **Appendix XIV**.

