

CHAPTER 13

THE COMPLAINTS

Section 1 – Introduction

13.1 The complaints handling mechanism is one of the means adopted by the EAC to safeguard the fairness and integrity of the electoral system. Some complaints may reveal deficiencies in certain aspects of the electoral arrangements and help the EAC make better arrangements in future elections.

13.2 The complaints mechanism also acts as mutual monitoring among candidates, through which they may better understand the requirements of the electoral law and electoral guidelines. The EAC is committed to handling complaints received fairly and efficiently.

Section 2 – Election Committee Subsector Ordinary Elections

13.3 The complaints-handling period for the ECSS Ordinary Elections started from 6 August 2021, i.e. the day when the nomination period commenced, and ended on 3 November 2021, i.e. 45 days after the polling day. Altogether 5 parties were responsible for handling complaints during the complaints-handling period, including the EAC, the ROs, the Police, the ICAC and the PROs (who discharged their duties on the polling day only). Each of these parties had their respective areas of responsibilities depending on the nature of complaints:

- (a) the EAC is responsible for handling complaint cases generally not covered by any statutory provisions involving criminal liability;

- (b) the ROs are responsible for handling complaints of a minor nature under the authority delegated to them by the EAC (e.g. those relating to display of EAs, disputes over electioneering activities, use of sound amplifying devices, etc.);
- (c) the Police handles cases involving possible criminal offences, e.g. breaches of the EAC (EP) (EC) Reg and criminal damage of EAs, etc.;
- (d) the ICAC handles cases involving possible breaches of the ECICO, the Prevention of Bribery Ordinance (Cap. 201) and the ICAC Ordinance (Cap. 204); and
- (e) the PROs handle complaints received at the polling stations on the polling day and take action on those cases which require immediate attention, e.g. unlawful activities occurred in the polling stations.

Complainants could lodge their complaints with any of the above parties, and cases would be referred to the relevant authority.

13.4 The EAC Secretariat undertakes the role of the co-ordinator, responsible for collating complaints related statistics from other parties and compiling consolidated reports for submission to the EAC during the complaints handling period.

13.5 The complaints-handling period ended on 3 November 2021. A total of 29 cases were directly received from the public by the aforementioned 5 parties. Details are as follows:

Complaints Handling Party	No. of Complaints Directly Received from the Public
EAC	15 cases
ROs	5 cases
Police	2 cases
ICAC	3 cases
PROs	4 cases
Total:	29 cases

13.6 The majority of the complaints were related to EAs (14 cases) and nomination and candidature (4 cases). A breakdown of the complaints by receiving party and nature lodged during the complaints-handling period is at **Appendices XI (A) – (B)**. A breakdown of the outcome of investigations is at **Appendices XII (A) – (D)**.

Section 3 – Chief Executive Election

13.7 Due to the postponement of the election of the sixth-term CE from 27 March 2022 to 8 May 2022 (see paragraph 1.3 above), there were two complaints-handling periods for this CE Election. For the Discontinued Election, the complaints-handling period started on 17 January 2022 and ended on 9 April 2022 (i.e. 45 days after the discontinuation date). For the Postponed Election, the complaints-handling period started on 14 March 2022 and ended on 22 June 2022 (i.e. 45 days after the polling day). The EAC directly handled all the complaints within its purview and appointed a Senior Assistant Solicitor General from the DoJ as the Legal Advisor to provide legal advice as needed. The ICAC and the Police, collaborating with the EAC, also assisted in the handling of complaints within their respective purview. The RO handled complaints received at the main polling station on the polling day and was

delegated with the authority by the EAC to take action on cases that required immediate attention, e.g. unlawful activities carried out in the polling station, NCZs or NSZs.

13.8 During the complaints-handling period of the Discontinued Election, no complaint was received by the complaints-handling parties. During the complaints-handling period of the Postponed Election, a total of 20 complaints were received directly from the public by the EAC and Police. Among the 13 complaint cases received by the EAC, 6 were about EAs. A breakdown of all these complaint cases is shown at **Appendices XIII (A) – (B)**. The outcome of complaint cases investigated by category is shown at **Appendices XIV (A) – (C)**.