

Section 1 – Background

Cause of the By-election

1.1 In accordance with section 32(1) of the District Councils Ordinance (Cap. 547) (“DCO”), the Director of Home Affairs declared by notice in the Gazette on 11 August 2017 and 1 September 2017 respectively the existence of a vacancy each for the Peak Constituency and the Tung Wah Constituency in the Central and Western District Council (“DC”). Following the resignation of Mr CHAN Ho-lim Joseph, elected member of the Peak Constituency and Ms SIU Ka-yi, elected member of the Tung Wah Constituency, the offices became vacant on 15 August 2017 and 1 September 2017 respectively pursuant to section 26(b) of the DCO.

1.2 In accordance with section 33(1)(a) of the DCO, the Electoral Affairs Commission (“EAC”) was required to arrange a by-election to return two elected members to fill one vacancy each in the Peak Constituency and the Tung Wah Constituency of the Central and Western DC.

The Constituencies

1.3 The Peak Constituency and the Tung Wah Constituency are two of the 15 DC constituencies in the Central and Western District, with a registered electorate of 5 327 and 5 084 respectively. Maps showing

the boundaries of these two constituencies are at **Appendix I**.

The Polling Day and the Nomination Period

1.4 A notice of the Central and Western DC By-election for the Peak Constituency and Tung Wah Constituency (“the By-election”) was published in the Gazette on 22 September 2017. It specified 26 November 2017 (Sunday) as the polling day and the period from 3 October 2017 to 16 October 2017 (both dates inclusive) as the nomination period of the By-election.

Section 2 – Appointments and Nominations

Appointments

2.1 Mrs WONG HO Wing-sze Susanne, District Officer (Central and Western) and Ms WONG Suet-yi Penny, Assistant District Officer (Central and Western) were appointed by the EAC Chairman as the Returning Officer (“RO”) and the Assistant Returning Officer (“ARO”) for the By-election respectively. Their appointments, which were post-tied, were published in the Gazette on 22 September 2017. Miss LAW Ying-man Jenny and Ms NG Suet-ching Anita, both Senior Government Counsels of the Department of Justice (“DoJ”), were appointed by the EAC Chairman on 11 September 2017 as the AROs (Legal) for the By-election.

2.2 Mr LUI Kit-ling, Barrister-at-law, was appointed to serve on the Nominations Advisory Committee (District Councils) (“NAC(DC)”) for the By-election to provide the RO with necessary legal advice as to whether a particular candidate is eligible to be, or disqualified from being, nominated as a candidate at the By-election. Mr LUI’s appointment, covering the period from 3 October 2017 to 18 October 2017 (both dates inclusive), was published in the Gazette on 22 September 2017.

Nominations

2.3 The two-week nomination period ended on 16 October 2017,

and the RO received in total two nominations for the Peak Constituency and three nominations for the Tung Wah Constituency. All these nominations were determined as valid by the RO. The nominees for the Peak Constituency were Mr YOUNG Chit-on Jeremy and Mr CHIN Chi-kin Edward. The nominees for the Tung Wah Constituency were Ms NG Hoi-yan Bonnie, Mr LUI Kam-keung and Ms LAU Shu-yin Olivia. The NAC(DC) did not receive any request from the RO for legal advice on the validity of nomination. The names of the five validly nominated candidates were published in the Gazette on 27 October 2017.

Briefing for the Candidates

2.4 Mr Justice FUNG Wah Barnabas, the EAC Chairman, held a briefing session for the validly nominated candidates at the Function Room on 2/F, Kennedy Town Community Complex on 20 October 2017. The Chief Electoral Officer (“CEO”) and representatives of DoJ, the Independent Commission Against Corruption (“ICAC”) and Hongkong Post also attended the briefing session. The EAC Chairman drew the attention of the candidates and their agents to the major provisions in the relevant electoral legislation and guidelines and the need for strict compliance. He also explained to the candidates those issues related to conducting electioneering activities to which they should pay attention, including mainly polling and counting arrangements, appointment and roles of various types of agents, requirements relating to election advertisements (“EAs”) and election expenses, and the importance of protection of electors’ privacy when using their personal information in

electioneering activities. The representatives of the ICAC and Hongkong Post also briefed the attendees respectively on the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and the service of free postage for election mail.

2.5 Before the briefing session, the RO, witnessed by all parties present, drew lots to determine the candidate number for each candidate to be appeared on the ballot papers and the designated spots to be allocated to each candidate for the display of EAs. The result of the lots drawing for the Peak Constituency was as follows:

Candidate Number	Name of Candidate
1	Mr YOUNG Chit-on Jeremy
2	Mr CHIN Chi-kin Edward

The result of the lots drawing for the Tung Wah Constituency was as follows:

Candidate Number	Name of Candidate
1	Mr LUI Kam-keung
2	Ms NG Hoi-yan Bonnie
3	Ms LAU Shu-yin Olivia

There were 74 spots in the Peak Constituency and 84 spots in the Tung Wah Constituency designated for the display of EAs by candidates during

the election period. These designated spots were equitably allocated with each candidate receiving 37 in the Peak Constituency and 28 in the Tung Wah Constituency.

The EAC Guidelines on Election-related Activities

2.6 The Guidelines on Election-related Activities in respect of the District Council Election (“the Guidelines”) issued by the EAC in September 2015 was applicable to this By-election. The EAC also issued supplementary information on the Guidelines in September 2017, setting out the legislative changes, latest advice and electoral arrangements which were applicable to the By-election for reference and compliance by candidates and relevant parties. The Guidelines and the supplementary information were available at the EAC website (www.eac.gov.hk) for browsing and downloading. They were also available at the Registration and Electoral Office (“REO”) and the Central and Western Home Affairs Enquiry Centre during the election period.

Section 3 – Preparation Work

Appointment and Training of Polling/Counting Staff

3.1 The polling and counting duties of this By-election were mainly performed by staff of the REO. On 10 November 2017, the REO held a polling management training session for the Presiding Officers (“PROs”), Deputy Presiding Officers (“DPROs”) and Assistant Presiding Officers (“APROs”) in order to enhance the quality of management of polling stations. The training covered topics such as the main provisions under the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F) (“EAC (EP) (DC) Reg”), quality polling service, complaints handling as well as crisis management techniques. Two half-day briefing sessions on polling and counting duties were also conducted on 10 and 17 November 2017 respectively for staff of the polling-cum-counting stations and dedicated polling stations (“DPSs”) to familiarise themselves with their duties. Moreover, two half-day workshops were organised on 15 and 16 November 2017 respectively for polling-cum-counting staff to take part in a mock polling and counting exercise so as to familiarise themselves with the relevant procedures.

The Polling-cum-counting Stations

3.2 The CEO designated two ordinary polling stations (“OPSs”) for each of the Peak Constituency and the Tung Wah Constituency to

facilitate voting by electors. The two OPSs for the Peak Constituency were located at the Hong Kong Park Sports Centre and the German Swiss International School Peak Campus respectively. For the Tung Wah Constituency, the two OPSs were set up at King's College Old Boys' Association Primary School and SKH St. Matthew's Primary School respectively. The CEO also designated the Hong Kong Park Sports Centre and SKH St. Matthew's Primary School as the Main Counting Stations ("MCSs") for the respective constituencies, where the votes cast therein and also the votes cast at the DPSs would be mixed and counted. As the two MCSs were assigned with a larger number of electors in the respective constituencies, they were also designated as the dominant counting stations in accordance with the law to coordinate the counting results of the OPSs in the respective constituencies for transmission to the RO for announcement of the final election results. All the above-mentioned four OPSs were accessible to electors with mobility difficulties.

3.3 The four OPSs were set up in the afternoon of the day preceding the polling day. They were converted into counting stations after the close of poll. Within each counting station, there were a counting zone, a press area and a public area where members of the public might observe the count. Candidates and their election/counting agents were allowed to enter the counting zone to observe the count around the counting tables.

Dedicated Polling Stations

3.4 To enable registered electors of the Peak Constituency and the Tung Wah Constituency who were imprisoned or remanded by the Correctional Services Department (“CSD”) to cast their votes on the polling day, DPSs were set up at penal institutions for this By-election. According to the information provided by the CSD on 25 November 2017, a total of four registered electors of the Peak Constituency and the Tung Wah Constituency were in their custody at three penal institutions on the polling day. Therefore, a DPS was required to be set up at each of these penal institutions. Owing to security considerations, the polls at the DPSs were conducted from 9:00 a.m. to 4:00 p.m. on the polling day.

3.5 A DPS was also set up on the polling day at the Happy Valley Police Station for registered electors of the Peak Constituency and the Tung Wah Constituency who were remanded or detained on the polling day by law enforcement agencies (“LEAs”) (other than the CSD), including the Police, ICAC, Customs and Excise Department, Immigration Department, etc. to cast their votes. Since the LEAs might arrest persons who happened to be registered electors of the two constituencies concerned at any time on the polling day, the polling hours for the DPS at the Happy Valley Police Station were the same as those of the OPSs, i.e. from 7:30 a.m. to 10:30 p.m. on the polling day. The set-up of a DPS was basically the same as an OPS, but for security reasons, some of the polling materials used therein were specially designed.

3.6 To protect the secrecy of the votes cast at the DPSs, such votes were transferred to the MCSs at the Hong Kong Park Sports Centre and SKH St. Matthew's Primary School respectively and mixed with the ballot papers cast at that OPS before commencement of vote counting in accordance with section 76 of the EAC (EP) (DC) Reg.

3.7 The designation of the aforesaid venues as OPSs, DPSs and counting stations was published in the Gazette on 27 October 2017. Candidates were informed that subject to the required security clearance, they or their election/polling agents could enter the DPSs to observe the poll and witness the delivery of the ballot boxes to the MCSs by the PROs of the concerned DPSs in accordance with the relevant electoral regulation.

Polling and Counting Arrangements

3.8 During the polling hours, the PRO of each polling-cum-counting station, with the assistance of the DPRO and APROs, was responsible for ensuring the smooth and efficient operation of the polling station. The PRO also worked closely with the RO. When the count started, the PRO assumed the role of Counting Supervisor in overseeing the counting process and was responsible for determining the validity of questionable ballot papers, while the DPRO and APROs performed the duties of Assistant Counting Supervisors.

3.9 The PRO of each DPS was supported by an APRO and/or a

Polling Officer. The PRO delivered, under the escort of the Police, the locked and sealed ballot boxes to the MCSs located respectively at the Hong Kong Park Sports Centre and SKH St. Matthew's Primary School after the close of poll.

3.10 Outside all the polling stations, a No Canvassing Zone ("NCZ") and a No Staying Zone ("NSZ") were designated by the RO to provide electors with an unobstructed access to the polling stations. A notice was put up at a conspicuous spot outside each polling station, showing the areas of the NCZ and NSZ.

Poll Cards to Electors

3.11 The REO sent a poll card to each registered elector of the Peak Constituency and the Tung Wah Constituency on 6 November 2017 notifying the elector of the date, time of polling and the assigned polling station. The poll card was sent together with other election-related materials, including an "Introduction to Candidates", a location map of the polling station, a voting procedure guide and a leaflet on clean and fair elections issued by the ICAC. The "Introduction to Candidates", which included the candidates' election platforms, was also uploaded onto the EAC website. To assist persons with visual impairment in reading the contents of the candidates' election platforms, the REO appealed to candidates to provide a typed text version of their messages to be included in the "Introduction to Candidates" for uploading onto the EAC website. All the candidates in the By-election heeded the advice to

provide a typed text version.

Publicity

3.12 The REO issued press releases covering the major events of the By-election, which included the nomination period, the number of nominations received, names of the validly nominated candidates, the poll, the count, the setting up of DPSs, voter turnout rates and visits of the EAC to the polling and counting stations. Besides, all relevant information on the By-election (including press releases, hourly voter turnout rates, election results, etc.) was uploaded onto the EAC website for public information.

Contingency Plan

3.13 To cater for unforeseen situations (such as inclement weather conditions) under which the By-election could not be held as scheduled, fallback arrangements were made with the venue management of the polling stations to reserve the same venues for the following Sunday (i.e. 3 December 2017). Besides, a reserve polling station was set up for each of the two constituencies, and extra stock of electoral equipment and materials (such as ballot boxes, ballot papers, furniture and electoral forms, etc.) were put in reserve. Two vans were also provided to the polling stations to cater for any urgent transportation needs.

Section 4 – The Poll

Polling Hours

4.1 The polling hours for the OPSs at the Hong Kong Park Sports Centre, the German Swiss International School Peak Campus, King's College Old Boys' Association Primary School and SKH St. Matthew's Primary School as well as the DPS at the Happy Valley Police Station were from 7:30 a.m. to 10:30 p.m. on 26 November 2017. The polling hours for the DPSs at the penal institutions ran from 9:00 a.m. to 4:00 p.m. The CEO announced the polling hours of the By-election by a Gazette notice published on 27 October 2017.

Logistical Arrangements

4.2 A central command centre was set up by the REO on the polling day to oversee the operation of the poll and to provide logistical support to staff in the polling stations. The centre was also tasked with disseminating statistical information on the hourly voter turnout rates, the election results, and the number and types of complaints received. The centre operated at the REO office located at the Harbour Centre from 7:00 a.m. on the polling day until the announcement of the By-election results.

4.3 To ensure prompt response to telephone enquiries from the public about the eligibility to vote and general electoral arrangements,

and to render assistance to polling staff in ascertaining the eligibility of electors so as to enhance the smooth operation of polling stations, an election enquiry hotline operating from 7:00 a.m. to 11:00 p.m. was set up on the polling day at the REO office at the Kowloonbay International Trade and Exhibition Centre. Since the By-election involved electors of two constituencies, the REO deployed extra manpower to receive incoming calls from the public and the polling staff, and to handle their enquiries expeditiously. The majority of enquiries received on the polling day were related to voting eligibility. Besides, a media enquiry hotline was set up from 7:30 a.m. on the polling day until the announcement of the By-election results for handling media enquiries and dissemination of relevant information to the public through the media at regular intervals.

4.4 A complaint centre was set up at the REO office at the Harbour Centre to receive and handle election-related complaints. It was manned by staff of the EAC Secretariat and operated from 7:30 a.m. to 11:00 p.m. on the polling day.

4.5 At the district level, a district command centre, manned by staff of the Home Affairs Department, was set up at the Central and Western District Office to serve as the contact point between the RO and the PROs. The PROs were responsible for keeping the RO and ARO informed of all significant events occurred at the polling stations, and for handling election-related complaints. Under the direction of the district command centre, a district team would take immediate action against unauthorised

display of EAs and illegal canvassing activities in or around the NCZs.

4.6 The Police rendered assistance in maintaining the law and order inside the polling-cum-counting stations as well as the NCZs/NSZs. Police officers were also stationed at the DPS at the Happy Valley Police Station to provide support to the PRO whenever required.

Turnout of Electors

4.7 In the By-election, 1 780 of the 5 327 registered electors (33.41%) of the Peak Constituency and 1 973 of the 5 084 registered electors (38.81%) of the Tung Wah Constituency cast their votes. The hourly turnout rates of this By-election are shown at **Appendix II**.

Visits

4.8 Mr Justice FUNG Wah Barnabas, the EAC Chairman and Mr LUK Yee-shun Arthur, the EAC Member, observed the polling process at polling stations in the morning of the polling day. Firstly, Mr Justice FUNG visited the OPS at King's College Old Boys' Association Primary School, while Mr LUK visited the OPS at the German Swiss International School Peak Campus. Mr Justice FUNG then cast his vote at the OPS at the Hong Kong Park Sports Centre, before taking a tour with Mr LUK at the polling station. After that, they conducted a media briefing on the latest progress of the poll and answered questions from the media.

Section 5 – The Conversion

5.1 The poll at the OPSs at the Hong Kong Park Sports Centre, the German Swiss International School Peak Campus, King's College Old Boys' Association Primary School and SKH St. Matthew's Primary School, as well as the DPS at the Happy Valley Police Station closed as scheduled at 10:30 p.m., while the DPSs at the three penal institutions closed at 4:00 p.m.

5.2 The PROs of the DPSs locked and sealed the ballot boxes in the presence of a police officer or an officer of the CSD after the close of poll. Under the escort of the Police, the PROs delivered those ballot boxes to the respective MCSs at the Hong Kong Park Sports Centre and SKH St. Matthew's Primary School.

5.3 Regarding the OPSs at the Hong Kong Park Sports Centre, the German Swiss International School Peak Campus, King's College Old Boys' Association Primary School and SKH St. Matthew's Primary School, after the close of poll, the PRO of each OPS locked and sealed the ballot box in the presence of the candidates or their agents who were present at the polling station. At the same time, the polling staff displayed a notice at the entrance of each polling station, notifying the public of the close of poll and the temporary closure of the polling station to facilitate its conversion into a counting station as well as the telephone number of the station concerned to facilitate communication between the candidates or their agents and the polling staff.

5.4 When the conversion of the polling stations into counting stations was nearing completion, the counting staff displayed another notice outside each counting station, announcing the approximate time when the counting station would be open again for the public to observe the count. The conversion of the counting stations was completed within 45 minutes.

5.5 Mr Justice FUNG, the EAC Chairman, and Mr Arthur LUK, the EAC Member, were present at the polling stations at the Hong Kong Park Sports Centre and SKH St. Matthew's Primary School respectively to observe the conversion. They were satisfied that the conversion process as a whole was smoothly completed.

Section 6 – The Count

Start of the Count

6.1 From 11:05 p.m. to 11:25 p.m., the counting stations at the Hong Kong Park Sports Centre, the German Swiss International School Peak Campus, King's College Old Boys' Association Primary School and SKH St. Matthew's Primary School were open for admission of the public and the media to observe the count. In the presence of candidates and their agents, the PRO and DPRO/APROs of each station put the locked and sealed ballot boxes onto the counting tables. The PRO then unsealed the ballot boxes. At the MCS at the Hong Kong Park Sports Centre, the first unsealed ballot box was jointly emptied by Mr Justice FUNG, the EAC Chairman, and Mr NIP Tak-kuen Patrick, the Secretary for Constitutional and Mainland Affairs. The PRO then unsealed the ballot boxes received from each DPS, verified the numbers of ballot papers contained therein against the ballot paper accounts of the respective DPSs, and then mixed them with those of the polling station at the Hong Kong Park Sports Centre before starting the count. Regarding the other MCS at SKH St. Matthew's Primary School, Mr Arthur LUK, the EAC Member and the RO jointly emptied the first unsealed ballot box. The PRO then followed the above-mentioned procedure and unsealed the ballot boxes received from each DPS, verified the numbers of ballot papers contained therein against the ballot paper accounts of the respective DPSs and mixed them with those of the polling station. The count then commenced immediately.

Invalid and Questionable Ballot Papers

6.2 Out of the 1 780 and 1 973 ballot papers issued at the polling stations for the Peak Constituency and the Tung Wah Constituency, 6 and 7 ballot papers respectively were determined as invalid. These invalid ballot papers were not counted in accordance with section 78 of the EAC (EP) (DC) Reg.

6.3 In addition, 30 and 20 ballot papers respectively for the Peak Constituency and the Tung Wah Constituency were identified as questionable ballot papers. In the presence of the candidates and their agents, the PROs concerned, with the assistance of the AROs (Legal), carefully examined the questionable ballot papers to determine their validity. The determination in this regard was as follows:

	Peak Constituency	Tung Wah Constituency
Questionable ballot papers ruled valid and counted	28	17
Questionable ballot papers ruled invalid and not counted	2	3
Total:	30	20

A summary of the ballot papers that were not counted is at **Appendix III**.

Election Results

6.4 Upon completion of the count, the PROs verified the number of ballot papers counted at their counting stations with the ballot paper accounts. The figures were found tallied. The PROs made known the counting results to the candidates and their agents who were present at the counting zones and received no request for re-count. The PROs of the counting stations located at the German Swiss International School Peak Campus and King's College Old Boys' Association Primary School then reported the counting results to the PROs of the respective dominant counting stations at the Hong Kong Park Sports Centre and SKH St. Matthew's Primary School through the Statistical Information Centre ("SIC"). After consolidating the counting results, the PROs of the dominant counting stations reported to the RO the overall counting results of their respective constituencies and then informed the candidates and their agents present of the counting results.

6.5 As there was no request for re-count, the RO declared the election result for the Tung Wah Constituency at 0:28 a.m. on 27 November 2017: Ms NG Hoi-yan Bonnie was elected with 1 034 valid votes, representing 52.67% of the total number of 1 963 valid votes cast. As regards the other candidates, Mr LUI Kam-keung received 909 votes while Ms LAU Shu-yin Olivia received 20 votes. For the Peak Constituency, the RO declared the election result at 1:10 a.m.: Mr YOUNG Chit-on Jeremy was elected with 1 378 valid votes, representing 77.77% of the total number of 1 772 valid votes cast. The other

candidate, Mr CHIN Chi-kin Edward received 394 votes. The results of this By-election were published in the Gazette on 1 December 2017 and are now reproduced at **Appendix IV**.

Section 7 – Complaints

Complaints-handling Period

7.1 The complaints-handling period for this By-election started from the commencement date of the nomination period on 3 October 2017 and ended on 10 January 2018 (i.e. 45 days after the polling day). During the complaints-handling period, a total of five different parties were designated for handling and processing complaints. They were the EAC, the RO, the Police, the ICAC and the PROs (who discharged duties on the polling day only). Complainants could lodge their complaints with any of the above parties.

7.2 The complaints-handling period ended on 10 January 2018, and a total of 153 complaints were directly received from the public by the aforesaid five parties, including 121 complaints received on the polling day. The majority of these complaints concerned unauthorised display of EAs, nuisance to electors caused by the electioneering activities and canvassing for votes in the NCZ/NSZ. A breakdown of the complaints received during the complaints-handling period by the receiving parties and their nature is shown at **Appendix V**.

Complaints Received on the Polling Day

7.3 There were 121 complaints received by the EAC, the RO, the PROs and the Police on the polling day. The majority of the complaints

received on the polling day were expeditiously handled and resolved on the spot. They mainly concerned unauthorised display of EAs, nuisance to electors caused by the electioneering activities and canvassing for votes in the NCZ/NSZ. A breakdown of the complaints received on the polling day by the receiving parties and their nature is shown at **Appendix VI**.

Outcome of Investigation

7.4 Of the 153 complaints received during the complaints-handling period, 60 were found substantiated, 2 partially substantiated, 47 unsubstantiated, 43 required no further action, and 1 still under investigation.

Section 8 – Review and Recommendations

8.1 The EAC considers that the By-election was 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 the electoral procedures and arrangements on the By-election 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.

(A) Safeguarding Voting Secrecy

8.2 One of the polling stations for the Peak Constituency was located at the sports centre in the Upper Building of the German Swiss International School Peak Campus, with the school assembly hall right outside the entrance/exit to the polling station. Since the assembly hall would not be put to use on the polling day, the PRO did not place any screen panels in the proximity of the said entrance/exit to separate the polling station from the assembly hall when setting up the venue. During his visit to the polling station on the morning of the polling day, an EAC Member noticed that there was a member of the public hanging around in the assembly hall near the entrance/exit to the polling station who might be able to see the activities inside the polling station. Though the EAC Member considered that it was rather unlikely for people other than the electoral staff and electors to enter or stay inside the assembly hall on the polling day, for safeguarding the principle of voting

secrecy, he asked the PRO to erect screen panels outside the entrance/exit to the polling station to prevent other people from seeing the activities inside the polling station, when going in and out of the assembly hall. The PRO immediately arranged staff to set up screen panels at appropriate locations outside the entrance/exit to the polling station.

8.3 **Recommendation:** To safeguard voting secrecy, the EAC is of the view that the REO should in future be more alert to the physical environment of the venue when drawing up the set-up plan of polling stations, and adopt adequate measures to ensure secrecy and forestall the possibility of people outside the polling station being able to see what happens inside the polling station. Moreover, to safeguard voting secrecy, the REO should also remind PROs of the need to make appropriate arrangements in a flexible manner taking into account the physical environment of the venue when setting up polling stations.

(B) Delay in delivery of ballot boxes from a DPS to the MCS

8.4 As mentioned in paragraph 3.6 above, to protect voting secrecy at the DPSs, the votes cast were transferred to the MCS of the relevant constituency after the close of poll and mixed with the ballot papers cast at that MCS before the start of vote counting.

8.5 After the close of poll at 10:30 p.m. on the polling day, the PRO of the DPS at the Happy Valley Police Station locked and sealed the two ballot boxes for the Peak Constituency and the Tung Wah

Constituency respectively in the witness of police officers. At 10:55 p.m., the PRO, accompanied by the APRO and a police officer, took a light van arranged by the transport service contractor engaged by the REO and departed from the DPS at the Happy Valley Police Station to deliver the sealed ballot boxes and related electoral documents to respective MCSs.

8.6 Under the prior arrangement, the delivery team would first deliver the ballot box for the Tung Wah Constituency to the MCS at SKH St. Matthew's Primary School and then deliver the one for the Peak Constituency to the MCS at the Hong Kong Park Sports Centre. The delivery team arrived at the MCS at SKH St. Matthew's Primary School at 11:07 p.m., and after completing the handover of the ballot box and electoral documents, it embarked on the journey to the MCS at the Hong Kong Park Sports Centre at 11:15 p.m. However, as the driver of the contractor was unfamiliar with the driving route from SKH St. Matthew's Primary School to the MCS at the Hong Kong Park Sports Centre, extra time was spent on searching for the correct route, and as a result the ballot box for the Peak Constituency was only delivered to the MCS at the Hong Kong Park Sports Centre at 11:40 p.m. By that time the MCS was already open for the public and media to observe the count and the commencement of vote counting was delayed due to the need to wait for the ballot box from the DPS.

8.7 **Recommendation:** As the By-election involved two constituencies, the PRO of the DPS concerned had to deliver the two

ballot boxes for different constituencies to the respective MCSs one after another. The EAC is of the view that if more than one constituency is involved in future DC by-elections, the REO should consider the actual circumstances and arrange appropriately individual manpower and vehicles for delivering the ballot boxes for different constituencies from the DPS to the relevant MCSs separately in order to shorten the delivery time. Furthermore, the escorting officers should be familiar with the driving route beforehand and provide the driver of the contractor with adequate and clear instructions as well as the driving route map for reference before departure so as to prevent the recurrence of similar incidents. In addition, the REO should step up its training for PROs of the MCSs and remind them that if the ballot boxes from a DPS cannot be delivered to the MCS concerned as scheduled for any reason, the counting staff may unseal the ballot boxes of the MCS to start the vote counting first so as to avoid delaying the counting process, while the counting staff should retain the ballot papers in at least one ballot box of the MCS for mixing with those ballot papers in the ballot box of the DPS arriving later and continue the counting process in accordance with section 76(2) of the EAC (EP) (DC) Reg.

(C) Establishment of a Notification Mechanism for Commencement of Counting Procedures

8.8 In light of the experience gained from the 2016 Legislative Council General Election, the REO has formulated a new notification mechanism to ensure that counting of votes will only commence after

voting has been completed at all polling stations within the same constituency. The mechanism was implemented on trial in this By-election. At the close of poll, the PROs at the various polling stations would report the completion of voting to the SIC of the REO. They would then convert the polling stations into counting stations and wait for further instructions from the REO. Upon ascertaining the completion of voting at all polling stations within the same constituency, the SIC would, through Short Message Service (“SMS”), issue to all PROs instructions to commence the counting process. The PROs should only commence the vote counting upon receipt of the SMS from the SIC. The new arrangement operated smoothly in this By-election.

8.9 **Recommendation:** The EAC considers that it is necessary to put in place a proper notification mechanism to ensure that all polling stations within the same constituency will, in accordance with the law, commence the counting process only after the completion of poll in the constituency as a whole. The REO should continue to review and improve this mechanism in future elections while studying other feasible means of notification enabling the issuance of relevant instructions to all PROs in an effective and timely manner in larger scale elections in the future.

(D) Transmission of Information between the Polling/Counting Stations and the SIC

8.10 This By-election involved two constituencies. An SIC was

set up at the REO office at the Harbour Centre to collect the hourly voter turnout figures of the four OPSs in order to consolidate the hourly voter turnout figures of the two constituencies; and also to collect from the four counting stations after the completion of counting the number of votes that the candidates obtained so as to work out the respective consolidated counting results of the two constituencies, which would then be passed to the RO in the dominant counting stations for announcement.

8.11 Upon completion of vote counting, the staff of the counting station for the Peak Constituency at the Hong Kong Park Sports Centre, in accordance with established procedures, sent to the SIC by fax a document containing the respective numbers of votes that the two candidates received to facilitate the consolidation of counting results by the SIC. Due to a technical hitch with the fax machine during the transmission, the counting staff was not able to send the relevant document promptly to the SIC, thus resulting in a slight delay in the announcement of the election results.

8.12 **Recommendation:** Although the transmission of documents between the polling/counting stations and the SIC has all along been made by fax and equipment failure incident happened rarely in previous elections, the REO may explore other secure and feasible methods of information transmission, in keeping with the advances in technology, so as to facilitate a more efficient and smoother operation of the relevant procedures. In addition, the REO should also formulate contingency measures with respect to the transmission of information between the

polling/counting stations and the SIC, and enhance the alertness and handling skill of the officers in charge of the polling/counting stations to emergency situations in future elections so as to cope with unforeseen circumstances. Besides, when the counting process needs to be extended due to any incident, the officer in charge of the counting station should keep the media and public, who are present to observe the count, informed of the incident timely so as to avoid unnecessary misunderstanding.

Section 9 – Acknowledgement

9.1 The smooth conclusion of the By-election was attributable to the dedicated and concerted efforts of all parties involved.

9.2 The EAC would like to thank the following government bureaux and departments for their support and assistance:

Agriculture, Fisheries and Conservation Department

Civil Aid Service

Constitutional and Mainland Affairs Bureau

Correctional Services Department

Customs and Excise Department

Department of Health

Department of Justice

Drainage Services Department

Education Bureau

Electrical and Mechanical Services Department

Food and Environmental Hygiene Department

Government Logistics Department

Home Affairs Department

Hong Kong Observatory

Hong Kong Police Force

Hongkong Post

Immigration Department

Independent Commission Against Corruption

Information Services Department

Lands Department

Leisure and Cultural Services Department

Marine Department

Official Languages Division (of the Civil Service Bureau)

Official Receiver's Office

9.3 The EAC is grateful for the efforts of all government officers serving as the RO, AROs, PROs, DPROs, APROs and those who assisted in performing the polling and counting duties, and the barrister serving on the NAC(DC) in the By-election.

9.4 The EAC is also thankful to the CSD, the Police and other LEAs for their assistance to the REO in making the necessary arrangements to facilitate the voting by registered electors who were imprisoned, remanded or detained on the polling day.

9.5 The EAC would like to thank the media who helped enhance the transparency of the By-election by giving it wide coverage.

9.6 Finally, the EAC would like to express its appreciation to the electors who turned up to cast their votes and all those who rendered support or assistance in ensuring compliance with the electoral legislation and guidelines in the By-election.

Section 10 – Looking Forward

10.1 The EAC remains committed to fulfilling the mission of safeguarding the integrity of public elections in Hong Kong. It will make continued efforts to keep a vigilant watch on every election to ensure openness, fairness and honesty. The EAC welcomes positive and constructive comments to bring about improvements to the arrangements for future elections.

10.2 The EAC recommends that this report be made public, at a time the Chief Executive thinks appropriate, so that the public may be kept posted as to how the EAC conducted and supervised the By-election.