

PART ONE

PROLOGUE

CHAPTER 1

AN OVERVIEW

Section 1 – Introduction

1.1 The fourth term of the District Councils (“DCs”) with 412 elected members for a four-year term expired on 31 December 2015. An ordinary election was held on 22 November 2015 to return 431 elected members for the fifth term of four years from 1 January 2016 to 31 December 2019.

1.2 The Government has increased the number of elected seats for the 2015 DC Ordinary Election from 412 to 431 having regard to the population forecast of Hong Kong in mid-2015. The details of the arrangement are set out in paragraphs 2.4 to 2.7 in Chapter 2.

1.3 In this election, there was a record high of 935 validly nominated candidates, 68 of whom were returned uncontested. The remaining 867 candidates ran for the seats in the other 363 constituencies. While competition was the keenest in the Lok Tsui and Fu Sun Constituencies, each with six candidates competing for the respective seat, the Kwan Po Constituency had five candidates competing for its seat.

1.4 The number of electors turning up at the polls was also a record high with a total of 1 467 229 electors cast their votes, representing 47.01% of the total electorate of 3 121 238 for the contested constituencies. The voter turnout was higher than that of the two previous DC ordinary elections held in 2007 and 2011, in which 1 148 815 and 1 202 544 electors had voted respectively. In addition, the

overall voter turnout rate was 47.01%, which was also higher than that in the 2003 and 2011 DC Ordinary Elections, which were 44.10% and 41.49% respectively.

Section 2 – Legislation Governing the Election

1.5 The supervision and conduct of the 2015 DC Ordinary Election were governed by the following ordinances:

- (a) the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”), which empowers the Electoral Affairs Commission (“EAC”) to perform its various functions in the supervision and conduct of the election;
- (b) the District Councils Ordinance (Cap 547) (“DCO”), which provides the legal basis for conducting the election;
- (c) the Legislative Council Ordinance (Cap 542) (“LCO”), which lays down the qualification for registration as an elector; and
- (d) the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”), which prohibits election-related corrupt and illegal matters and is administered by the Independent Commission Against Corruption (“ICAC”).

1.6 The above ordinances are complemented by the following eight pieces of subsidiary legislation which stipulate the detailed procedures for the conduct of the

election:

- (a) the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) (“EAC (EP) (DC) Reg”);
- (b) the Electoral Affairs Commission (Nominations Advisory Committees (District Councils)) Regulation (Cap 541E) (“EAC (NAC) (DC) Reg”);
- (c) the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”);
- (d) the District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap 547A);
- (e) the District Councils (Election Petition) Rules (Cap 547C);
- (f) the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M);
- (g) the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N); and

- (h) the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554C).

The District Councils (Amendment) Bill 2013

1.7 On 26 June 2012, the Government issued the Consultation Report on the District Council Appointment System, reporting that the views received and the opinion polls conducted indicated that the community supported the abolition of all DC appointed seats over one term. Subsequently, the Government introduced the District Councils (Amendment) Bill 2013 to the Legislative Council (“LegCo”) on 20 February 2013, proposing amendments to the DCO and other relevant subsidiary legislation with a view to abolishing the system of appointing members to the DCs with effect from 1 January 2016, i.e. the commencement date of the fifth term of office of the DCs. The Bill was passed by the LegCo on 22 May 2013 and came into operation on 1 January 2016.

The Electoral Legislation (Miscellaneous Amendments) Bill 2014

1.8 The Government introduced the Electoral Legislation (Miscellaneous Amendments) Bill 2014 to the LegCo on 11 April 2014, proposing amendments to improve the voter registration arrangements and electoral procedures. The amendments relating to the DC elections include the following:

- (a) introducing specific provisions in the relevant electoral legislation to clarify that the statutory deadlines which fall on a working day should be extended to the following working day when a gale

warning or black rainstorm warning is in force throughout or for any part of the ordinary business hours of the relevant authorities on the day of the deadline, so as to compensate for the time lost for completing the relevant acts or proceedings;

- (b) including electors who have voluntarily requested voter de-registration in the omissions list (“OL”). If the elector subsequently changes his/her mind and wants to be included in the final register (“FR”), he/she may lodge a notice of claim to request reinstatement of his/her registration after publication of the OL in accordance with the existing procedures. A de-registered elector may also apply for registration as an elector again any time;
- (c) only requiring a polling agent or a counting agent so appointed by a candidate to submit a duly completed notice of appointment direct to the specified supervisory officer onsite for inspection and retention when the agent first seeks admission to a polling station (other than a Dedicated Polling Station (“DPS”) situated in a prison) or to a counting station on the polling day before polling/counting of the relevant station is completed. For revocation of appointment of polling/counting agents, the candidate concerned should serve a notice of revocation any time on the polling day to the Chief Electoral Officer (“CEO”) (rather than the Presiding Officers (“PROs”) or Returning Officers (“ROs”)), who will act as the central coordination point to deliver the information to the PROs or ROs of the polling or counting stations concerned;

- (d) a review of the electoral law by the Government revealed that the current provisions detailing the counting steps in a main counting station (“MCS”) require the counting of the number of ballot papers in each ballot box and verification of the ballot paper account in respect of the MCS before counting of votes. This requirement runs counter to the objective of the counting steps laid down in the 2012 legislative amendments¹. In view of this, amendments were made to the relevant provisions of the subsidiary legislation under the EACO to rationalise the counting steps at MCSs;
- (e) clarifying that the acts which an election agent is authorised to perform on behalf of a candidate are those acts which the candidate is required to do under the respective electoral procedure regulation. The signing of election return as required under the ECICO is hence excluded;
- (f) specifying that in the event of an occurrence which appears to be a material irregularity relating to the election, the poll or the counting of votes, the fallback period for the postponed or adjourned election, poll or count should be within 14 days (not within the original two days) from the date on which it would have

¹ The PRO of a MCS must mix the ballot papers received from small polling stations and DPSs with the ballot papers in at least one of the ballot boxes at the MCS polling station when counting the votes at the MCS, so as to enable the PRO of the MCS to start the vote counting process as early as practicable without waiting for the arrival of all the ballot boxes from small polling stations and DPSs.

been held. This is to provide sufficient flexibility in conducting or resuming the relevant event and to be in line with the fallback timeframe for postponement or adjournment of an election due to typhoon/tropical cyclone or other climatic condition of a serious nature, and riot, open violence or other occurrence of public danger;

- (g) making provisions to cater for postponement/adjournment of an election, poll or counting of votes owing to an occurrence of public health danger of such severity as to obstruct, disrupt, undermine or seriously affect an election, poll or count;
- (h) extending the claims and objections period by advancing the deadline for voter registration (“VR”) application by 14 calendar days, i.e. the VR application deadline be advanced from 16 May to 2 May in a non-DC election year, and from 16 July to 2 July in a DC election year. In order to allow sufficient time for the Revising Officer to complete his/her review process, in extending the claims and objections period by 14 calendar days, 10 calendar days should be provided for the public to inspect the provisional register (“PR”) and the OL, and 4 calendar days should be provided for the Revising Officer to process the expected increase in claims and objections as a result of the extension of the claims and objections period;
- (i) removing the six-month time bar applicable to the relevant

provisions on making false or incorrect statement knowingly or recklessly or making material omission knowingly in relation to VR under the relevant electoral legislation by making these offences indictable; and

- (j) a few minor or technical amendments including:
 - (i) amending the definition of “ordinary business hours” in the relevant electoral legislation to better reflect and accommodate practical needs. The existing definition of “ordinary business hours” under the statute, which includes Saturday mornings, would apply to the period from the date of gazettal of an election notice to, in the case of DC elections, the date of gazettal of election result or the date of declaration of the failure or termination of the election, as may be appropriate. For other times, the CEO’s and the RO’s offices would open for business from Monday to Friday (other than a general holiday);
 - (ii) specifying the deadline (at least 10 days before polling day) for publishing a list of polling stations, counting stations and ballot paper sorting stations in the Gazette and indicating on the list the special polling stations suitable for disabled voters; and advancing the deadline for the RO to give notice to candidates about place(s) of counting from at least one working day before polling day to at least 10 days before

polling day;

- (iii) adding transmission by electronic mail as a means of delivery for certain notices between the CEO or the ROs and candidates, and certain applications to the CEO. Besides, following the launch of a platform for receiving electronic submission of certain electoral documents by the Registration and Electoral Office (“REO”), removing relevant items from the Electronic Transactions (Exclusion) Order (Cap 553B);
- (iv) making amendments to the relevant parts of the EACO to make clear that the relevant references to “electoral law” and “constituency” will cover that for DC elections as well, hence removing any doubt as to whether the EAC has the necessary power to make regulations in so far as it is related to DC elections; and
- (v) tallying the Chinese translation of “printed election advertisement” under different provisions in the ECICO.

1.9 In June 2014, the Government introduced Committee Stage Amendments to the abovementioned Bill. The amendments relating to DC elections include the following:

- (a) proposing to change the Chinese title of OL from “遭剔除者名單” to “取消登記名單” to better reflect the nature of the OL, i.e. that it

consists of (i) electors for whom the Electoral Registration Officer (“ERO”) is satisfied on reasonable grounds that they have ceased to be eligible for registration, and (ii) electors who have voluntarily requested the ERO to remove them from the voter register;

- (b) spelling out clearly that the ERO, upon receipt of a signed written notice of de-registration from an elector, will issue a notice by registered post to the elector to inform him/her that his/her entry will be omitted in the next FR. Moreover, setting out the general principle to handle the electors’ request for de-registration voluntarily, i.e. the ERO will include an elector’s entry in the OL on the basis of his/her request for de-registration if in the ERO’s opinion the elector concerned has been informed of the ERO’s intention to omit the elector’s entry from the next FR;
- (c) proposing to withdraw the amendment relating to the removal of the requirement for prior notice of appointment of polling and counting agents in the abovementioned Bill (see paragraph 1.8 (c)), and maintain the status quo regarding the service of notices of appointment/revocation of appointment of polling and counting agents; and
- (d) other refinements to improve the clarity of the provisions.

1.10 The Electoral Legislation (Miscellaneous Amendments) Bill 2014 was passed by the LegCo on 10 July 2014. Except for the amendments to the

Electronic Transactions (Exclusion) Order (Cap 553B), which were implemented on 1 January 2015, other amendments came into operation on the day of publication in the Gazette (i.e. 18 July 2014).

The District Councils Ordinance (Amendment of Schedule 7) Order 2015 and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2015

1.11 On 18 March 2015, the Government introduced the District Councils Ordinance (Amendment of Schedule 7) Order 2015 and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2015 to the LegCo, proposing that, starting from the 2015 DC Ordinary Election, the subsidy rate of financial assistance for candidates of DC election be increased from \$12 per vote to \$14 per vote². In addition, it was proposed that the maximum amount of election expenses that could be incurred by a candidate in the DC election be increased from \$53,800 to \$63,100.

1.12 Following the completion of the negative vetting process by the LegCo on 6 May 2015, the District Councils Ordinance (Amendment of Schedule 7) Order

² According to the existing scheme, a DC election candidate is eligible for financial assistance only if he/she is elected as an elected member or obtains at least 5% of the total number of valid votes cast in the constituency concerned. The amount payable as financial assistance would be the lowest of the following –

- (a) the amount obtained by multiplying the specified rate by the total number of valid votes cast for the candidate (if the election is contested) or 50% of the number of registered electors for the constituency concerned (if the election is uncontested);
- (b) 50% of the election expenses limit; and
- (c) the declared election expenses of the candidate.

2015 and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2015 came into operation on 8 May 2015.

Section 3 – This Report

1.13 The EAC is required under section 8(1) of the EACO to submit a report on the election to the Chief Executive (“CE”) within three months of the conclusion of an election.

1.14 This report aims to give a comprehensive picture of how the EAC conducted and supervised the election at various stages. It gives a detailed account of the electoral preparatory work, the implementation of the electoral arrangements and handling of complaints as well as, having reviewed the effectiveness of the electoral arrangements and taken into account the experiences gained from this election, puts forth the EAC’s recommendations for improvements in future elections.

PART TWO

BEFORE THE POLLING DAY

CHAPTER 2

THE DELINEATION EXERCISE

2.1 Under section 4(a) of the EACO, one of the functions of the EAC is to consider and review the boundaries of DC constituencies for the purpose of making recommendations on the boundaries and names of constituencies for a DC ordinary election.

2.2 In accordance with section 18 of the EACO, the EAC is required to submit to the CE a report on its recommendations on the boundaries and names of DC constituencies at an interval of not more than 36 months from the preceding DC ordinary election. As the last DC ordinary election was held on 6 November 2011, the EAC was required to submit the report on the constituency boundaries for the 2015 DC Ordinary Election to the CE on or before 5 November 2014.

2.3 According to section 20 of the EACO, delineation of DC constituencies for the 2015 DC Ordinary Election was conducted on the basis of the total number of elected seats for the election and the projected populations in the year in which the relevant election is to be held. Under these circumstances, the EAC has requested the Ad Hoc Subgroup, formed under the Working Group on Population Distribution Projections led by the Planning Department, to provide the EAC with the necessary population forecasts for the delineation exercise. The Ad Hoc Subgroup was required to project the population distribution figures of the 18 Districts and each of the district council constituency areas (“DCCAs”) in each District as at a date as close to the polling day as practicable. For the 2015 DC

Ordinary Election, the cut-off date was 30 June 2015. The Ad Hoc Subgroup made available the relevant projected population figures in late December 2013.

2.4 After undertaking an overall review on the number of elected seats for each DC in the 18 Districts having regard to the population forecast of Hong Kong in mid-2015, the Government proposed to add 19 elected seats for the 2015 DC Ordinary Election as follows:

- (a) one more seat for each DC in Tsuen Wan and North;
- (b) two more seats for each DC in Sham Shui Po, Kowloon City, Kwun Tong, Yau Tsim Mong and Sha Tin;
- (c) three more seats for Sai Kung DC; and
- (d) four more seats for Yuen Long DC.

2.5 In the course of the Government's consultation with the LegCo and DCs on the addition of elected seats, there were views suggesting that the Government might consider adjusting the boundaries of the Eastern and Wan Chai Districts by transferring some DC elected seats from the Eastern DC to the Wan Chai DC. Having considered the views of the public, the Government proposed adjustment of the boundaries of the Eastern and Wan Chai Districts by transferring the Tin Hau and Victoria Park DCCAs from the Eastern District to the Wan Chai District and a corresponding amendment to the number of elected seats of the two DCs from the fifth term DCs onwards (including the 2015 DC Ordinary Election).

2.6 The Government consulted the LegCo Panel on Constitutional Affairs on 20 May 2013 on the proposed addition of 19 elected seats for the 2015 DC Ordinary Election. A motion was moved at the LegCo meeting on 6 November 2013 for the approval of the DCO (Amendment of Schedule 3) Order 2013 to implement this proposal. The Order was approved by the LegCo on the same day and published in the Gazette on 8 November 2013.

2.7 Regarding the proposed adjustment of the boundaries of the Eastern and Wan Chai Districts, the DCO (Amendment of Schedules 1 and 3) Order 2013 was passed by the LegCo on 22 January 2014 to implement the proposal and the approved Order was published in the Gazette on 24 January 2014.

2.8 Following the LegCo's approval of the two Orders as mentioned in paragraphs 2.6 and 2.7 above, for the 2015 DC Ordinary Election, the total number of elected seats was increased by 19 from 412 to 431; and the boundaries of the Eastern and Wan Chai Districts were adjusted to effect the transfer of the Tin Hau and Victoria Park DCCAs from the Eastern District to the Wan Chai District. Accordingly, the total number of DCCAs to be delineated by the EAC was increased to 431 as one DC member is to be elected from each constituency.

2.9 Having ascertained the number of constituencies to be delineated, the EAC drew up the provisional recommendations in accordance with the statutory criteria stipulated in section 20 of the EACO and the established working principles adopted by the EAC.

2.10 The EAC conducted a public consultation for a period of 30 days on its provisional recommendations from 26 June 2014 to 25 July 2014. Pursuant to section 19 of the EACO, the provisional recommendations together with the maps were made available for public inspection at the specified locations and the website of the EAC during the public consultation period. During this period, members of the public could submit written representations to the EAC to express their views on the provisional recommendations on the boundaries and names of DCCAs. Three public forums were also held on 7, 9 and 11 July 2014 at the Quarry Bay Community Hall, Lai Chi Kok Community Hall and Lung Hang Estate Community Centre respectively, where members of the public could submit their representations on the provisional recommendations orally.

2.11 During the consultation period, the EAC received a total of 1 446 written representations. Besides, a total of 104 persons turned up on the three days of the public forums, at which 64 oral representations on the provisional recommendations were received by the EAC. Having carefully considered the views of the public, the EAC adjusted the provisional recommendations in respect of the boundaries of 20 constituencies and the names of 2 constituencies. The EAC finalised its recommendations and submitted the report to the CE on 5 November 2014. The report contained a detailed account of the EAC's work in the delineation exercise. The CE in Council accepted the recommendations in their entirety on 25 November 2014 and made the Declaration of Constituencies (District Councils) Order 2014, which was tabled at the LegCo on 10 December 2014 for negative vetting and became effective on 1 January 2016. The EAC published the whole set of the final maps of delineation in January 2015 for public viewing.

CHAPTER 3

VOTER REGISTRATION

Section 1 – Eligibility to Vote and Qualification for Registration

3.1 To be eligible to vote in this election, a person is required to be registered as an elector for a geographical constituency (“GC”) under sections 24 and 27 to 31 of the LCO. His/Her name should appear on the FR of GC electors published on 25 September 2015. The registration arrangement for GC electors was conducted in accordance with the provisions of the EAC (ROE) (GC) Reg. To register as a GC elector, a person has to satisfy the following requirements:

- (a) in respect of the 2015 FR, he/she has to be aged 18 or above as at 25 September 2015;
- (b) he/she is a permanent resident of Hong Kong;
- (c) at the time of applying for registration, he/she ordinarily resides in Hong Kong and the residential address in his/her application for registration is his/her only or principal residence in Hong Kong;
- (d) he/she holds a valid identity document or has applied for a new identity document or replacement identity document; and
- (e) he/she is not disqualified from being registered as an elector.

3.2 Under the requirement of section 29 of the DCO, an elector is entitled to vote only once at the election and in the constituency for which he/she is registered.

Section 2 – The Voter Registration Campaign

3.3 To encourage eligible members of the public to register as electors and remind registered electors to report to the REO any change of their particulars (including residential addresses) in a timely manner, the Government conducted a large-scale VR campaign from 9 May to 2 July 2015. The VR campaign was coordinated by the Constitutional and Mainland Affairs Bureau (“CMAB”) with the joint efforts of the REO, Home Affairs Department (“HAD”), Information Services Department (“ISD”), Radio Television Hong Kong and the ICAC while the publicity on updating of registration particulars of registered electors lasted until 25 August 2015. In the light of public concern over the accuracy of residential addresses recorded in the voter registers in recent years, the Government stepped up publicity efforts during the VR campaign to impress upon the public the importance of providing true and accurate information for registration and remind registered electors the importance of updating their registered residential addresses. Publicity and promotional activities, such as announcements of public interest (“APIs”) on television and radio, advertisements in newspapers, at major Mass Transit Railway (“MTR”) stations and on public transport, as well as display of posters and banners were staged during the abovementioned periods. The details of these activities are set out below.

3.4 A kick-off ceremony was held on 9 May 2015 to announce the

commencement of the VR campaign. Throughout the campaign, roving registration counters were set up at popular spots, including major MTR stations and shopping malls, to help members of the public register as electors or update their registration particulars.

3.5 To encourage more young people to register as electors, registration counters were also set up at all Registration of Persons Offices of the Immigration Department (“Imm D”) to assist young people reaching the age of 18 in registering when they turned up at these offices to apply for or collect their adult identity cards. Furthermore, VR assistants were also deployed to tertiary institutions to encourage eligible students to register as electors.

3.6 In addition, the REO sent appeal letters to households who had moved into new housing estates reminding them to report their changes in addresses. In case they had not yet registered as electors, they were invited to do so before the statutory deadline (i.e. 2 July 2015) for registration.

3.7 As an on-going measure, the REO, having obtained the approval from the Privacy Commissioner for Personal Data, conducted cross-matching of particulars with the Housing Department (“HD”), the Hong Kong Housing Society (“HS”) and the HAD with a view to assisting registered electors to update their registered addresses based on the records kept by these three government departments/organisations. Besides, VR forms were also made available in the lobbies of residential buildings. In addition, posters were displayed to remind residents to update their addresses and appeal to those who had not yet registered as electors.

3.8 The Imm D continued to provide the REO with the information on change of addresses received under the Smart Identity Card Replacement System, subject to consent given by the persons concerned.

3.9 To facilitate on-line registration, a VR website was set up by the REO. A hyperlink to access the above dedicated website was provided on government websites and the websites which were frequented by members of the public.

3.10 To reduce paper consumption in elections, the REO set up a platform at the GovHK website to facilitate registered electors to provide or update their email addresses for candidates to send election advertisements (“EAs”) to electors during elections. In addition, VR assistants at Registration of Persons Offices and roving registration counters made efforts to encourage registered electors and persons who wished to register as electors to provide their email addresses in their registration forms.

3.11 In addition to the copies of the voter registers, the REO launched the Online Voter Information Enquiry System (“OVIES”) (www.voterinfo.gov.hk) in September 2014 to provide an extra and easy means for electors to check their own registration particulars, including names, registered addresses and constituencies to which they belong, etc. through an online platform. If an elector finds that his/her registration particulars are not up-to-date, for example, due to his/her failure to notify the REO after moving home, the elector can take action to submit application for updating his/her registration particulars as early as possible. If an enquirer has not yet registered as an elector and no matching records are found in the database,

OVIIES will provide a hyperlink showing the enquirer the steps for registration as an elector. From September to December 2014, promotional leaflets on OVIIES were sent by the REO to more than 2 million households together with the water bills to encourage electors to try out the newly launched system. The REO later stepped up its publicity efforts to further promote the use of the new system during the VR campaign.

3.12 About 537 000 application forms for new registration and report on change of particulars were received by the statutory deadline on 2 July 2015, of which about 352 000 were received during the seven-week VR campaign period. The total number of electors in the 2015 FR reached a record high of 3 693 942. Among them, there were about 263 000 newly registered electors.

Section 3 – The Registers

3.13 After the 2011 DC Ordinary Election, there were complaints and media reports on suspected cases of electors using false addresses for VR. To address public concerns about the accuracy of electors' registered addresses, the Government conducted a review on the VR system from late 2011 to early 2012, and consulted the views of LegCo and the public. To uphold the credibility of the VR system and enhance the accuracy and integrity of the information contained in the voter registers, the REO implemented enhanced checking measures starting from early 2012 by increasing the number of electors under checking and the extent of checking. In the light of experience gained in the last three VR cycles, the REO continued to implement the relevant checking measures and statutory inquiry process in the 2015 VR cycle. The relevant checking measures included

verification checks on electors' registered residential addresses through cross-matching of particulars with the HD, HS and HAD, checks on registered addresses with multiple electors or multiple surnames of electors, random sample checks on existing electors, checks on incomplete, commercial or suspected non-residential addresses, follow-up on cases of undelivered poll cards for the 2014 DC By-elections and other electoral documents and checks on addresses situated at demolished buildings or vacated buildings pending demolition.

3.14 If an elector under inquiry fails to reply to confirm or update his/her registered address, the REO will make inquiries to the elector concerned in accordance with the relevant electoral legislation. In the 2015 VR cycle, the number of electors covered by various checking measures implemented by the REO totalled about 1.6 million. Based on the checking results and in accordance with the relevant electoral legislation, the REO issued inquiry letters to about 82 600 of them as the REO had reasonable grounds to believe that the registered addresses of these electors were no longer their only or principal residence in Hong Kong. The REO received about 34 700 replies from these electors by the statutory deadline.

3.15 The REO published the PR on 31 July 2015. The PR included the names and principal addresses of those whose names were included in the previous FR and this information had been updated/amended by the REO on the basis of the information reported by the electors concerned or obtained from other sources. The PR also included the particulars of those eligible applicants who had applied for registration on or before 2 July 2015 (i.e. the deadline for registration).

3.16 An OL was published in conjunction with the publication of the PR on 31 July 2015. The OL contained the particulars of persons who were formerly registered in the 2014 FR but were not included in the 2015 PR and were proposed to be omitted from the 2015 FR on grounds that the ERO had reasonable grounds to believe that these persons had been disqualified or had ceased to be eligible for registration (for examples, persons who had passed away, persons who had informed the ERO that they did not wish to be registered or who had changed their principal addresses but the new addresses were not known to the ERO). The number of electors who were included in the OL as a result of not responding to the inquiry process mentioned above was 47 445 (after deducting about 500 electors who passed away during the inquiry process).

3.17 Both the PR and OL were made available at the REO and the designated public enquiry service centres of HAD for public inspection from 31 July to 25 August 2015, during which members of the public might lodge with the ERO objections against any entries in the PR. Any person whose name had not been recorded in the PR or whose particulars had not been accurately recorded or whose name had been put on the OL might also lodge claims with regard to such cases.

3.18 By the end of the public inspection period (i.e. 25 August 2015), the ERO received 49 notices of objection, involving 2 001 electors. The REO, in accordance with the statutory procedures, subsequently forwarded these cases to the three Revising Officers, who are Judicial officers, for consideration and ruling. As six objectors later withdrew some of their objections involving a total of 550 electors prior to the hearing, the eventual number of electors being objected to was 1 451. Hearings of these objections were conducted from 31 August to 11

September. On the other hand, no notice of claim was received by the ERO in the 2015 VR cycle.

3.19 The hearings by the Revising Officers with respect to the above objections lasted 10 days. Objections against 299 electors were approved and the electors concerned would be omitted from the register of electors, while the remaining objections regarding 1 152 electors were ruled to retain the relevant entries with respect to the electors concerned. This included the granting of approval to the ERO to update or correct the registered addresses of 315 electors among them. Most of the electors were omitted on the grounds that investigation results showed that they no longer lived at their registered addresses, and the REO could not reach them and, therefore, was not able to help them update their residential addresses. Separately, 5 784 electors originally included in the OL informed the ERO of their updated principal addresses before the statutory deadline for change of particulars on 25 August 2015. As a result, these persons satisfied all the eligibility criteria for registration as electors and they were added to the FR with the Revising Officers' approval. The remaining 41 661 electors in the OL were not included in the FR because they failed to provide information in accordance with the electoral legislation.

3.20 The FR was published on 25 September 2015. An age and sex profile of these registered electors is at **Appendix I**.

3.21 The existing arrangement of the VR system adopts an honest declaration system reflecting the principles of convenience for electors and the lenient approach. In making an application for new registration or updating registration

particulars, the applicant or elector is not required to submit the form in person or produce any documentary proof, but only needs to sign the declaration in the application form to confirm that the information provided is true and accurate. Such an arrangement serves to encourage and facilitate eligible persons to register as electors, and to make it more convenient for electors to update their particulars. In processing an application, the REO will undertake verification and at the same time checking to enhance the accuracy of the particulars contained in the register of electors. Besides, during the public inspection period, members of the public may make objections or claims to the ERO in respect of entries in the PR and OL, which will be determined in open hearings by an independent Revising Officer in accordance with the statutory procedures. The ERO will then compile the FR on the basis of the rulings by the Revising Officer. The existing VR system seeks to strike a right balance between the need to ensure the fairness, integrity and accuracy of the electoral system and the need to enable and facilitate eligible persons to register as electors and exercise their rights to vote.

3.22 During the 2015 VR cycle, the number of objections received increased exponentially when compared with the past years. In view of the different concerns from the public over the VR issues, the Government has, based on the experience of the 2015 cycle, initiated a review of the existing VR system and relevant arrangements. The CMAB issued the Consultation Document on Enhancement of Voter Registration System on 26 November 2015 to consult the public on a series of proposed measures for enhancing the VR system.

Section 4 – Designation of Electors to Constituencies

3.23 Upon the acceptance of the EAC's recommendations on the delineation and the names of the DCCAs by the CE in Council on 25 November 2014, the REO proceeded to designate each of the registered electors to a constituency according to their registered residential addresses as shown in the FR.

3.24 About 323 000 registered electors were affected by the change of boundaries and/or names of the DCCAs. The REO sent a notice to each of these electors in late March 2015 informing them of the new constituencies or the new names of the constituencies to which they were designated.

CHAPTER 4

THE GUIDELINES

Section 1 – The Preparatory Work

4.1 The EAC is empowered under section 6(1)(a) of the EACO to issue electoral guidelines to facilitate the conduct and supervision of an election. The purpose of producing the electoral guidelines is to ensure that all public elections are conducted in an open, fair and honest manner. The electoral guidelines provide a code of conduct based on the principle of fairness and equality for conducting election-related activities. They also give guidance in layman’s language on compliance with the relevant electoral legislation.

4.2 The EAC has at all times made its best endeavours in refining the electoral arrangements for elections. Before each ordinary election, the EAC will update the electoral guidelines. The revision is done on the basis of the existing guidelines, taking into account the amendments to the electoral legislation, as well as the experience of previous elections. Before the issue of each set of the guidelines, a 30-day period of consultation will be conducted during which representations on the proposed guidelines are invited from the public and all parties concerned. A public forum will also be held at which the EAC will listen to the oral representations from the members of the public. The guidelines will then be revised taking into account the views received during the public consultation period before they are finalised for issue to the public.

4.3 In November 2014, the EAC updated the Guidelines on Election-related Activities in respect of the District Council Election (“Guidelines”) applicable for the

2015 DC Ordinary Election. The proposed Guidelines were prepared on the basis of the most recent version of the Guidelines (September 2012 edition). Apart from reflecting the legislative amendments in respect of the DC election as mentioned in section 2 of Chapter 1, the revisions also took into account the operational experiences gained from the past elections, including the 2012 LegCo General Election and the 2015 Rural Ordinary Election and suggestions in respect of these elections from the public and other parties concerned.

Section 2 – The Proposed Guidelines

4.4 The major changes made in the proposed Guidelines, as compared with the Guidelines issued in September 2012, include the following:

(I) Changes caused by proposed amendments to electoral legislation

- (a) setting out the updated composition of the DCs with effect from 1 January 2016 after the abolition of appointed members;
- (b) revising the total number of DC constituencies for the 2015 DC Ordinary Election to 431;
- (c) revising the key dates of the voter registration timeframe;
- (d) specifying a deadline for gazetting the list of polling stations, ballot paper sorting stations and counting stations and revising the deadline for the RO to give notice to candidates about the place(s) of the counting of votes;
- (e) amending the description of the counting procedures for MCSs to remove possible procedural ambiguities;

- (f) updating the guidelines to include the use of electronic mail as a means of delivery of certain electoral documents, such as notices of appointment and revocation of appointment of election agents, election expense agents, polling agents and counting agents; and
- (g) revising the maximum amount of election expenses which can be incurred by or on behalf of a candidate in a DC election and the subsidy rate of financial assistance for eligible candidates of DC election.

(II) Changes made in the light of operational experiences and suggestions received from past elections

- (a) setting out clearly the ERO's checking measures to ensure the accuracy of electors' particulars in the registers and highlighting that it is an offence to knowingly or recklessly give false or misleading information for voter registration;
- (b) providing guidelines on application for temporary occupation of government land at public place for holding electioneering activities to remind candidates of the relevant procedures;
- (c) incorporating a case as suggested by the Office of the Privacy Commissioner for Personal Data to remind candidates who wish to use the personal data collected from other sources for electioneering purpose to state clearly the intended use of the data at the time of collection;
- (d) elaborating on the requirement of the "fair and equal treatment" principle in producing and conducting election-related programmes by licensed

broadcasters and reminding the print media to ensure that any news reports or references made in their publications should not give unfair publicity to any particular candidate or particular candidates in accordance with the “fair and equal treatment” principle;

- (e) updating the administrative procedures in approving applications for the conduct of exit polls to reflect the arrangements which have been put in place to ensure the fairness of election;
- (f) reminding candidates of the need of apportionment of expenses between election-related purposes and any other purposes;
- (g) reminding candidate(s), or any person or organisation acting as an agent for the candidate(s) to comply with all the legislative requirements in seeking or soliciting election donations and to provide the suggested good practices; and
- (h) providing clearer guidelines on the mention of office titles by supporters when giving consent of support to candidate(s).

4.5 In accordance with section 6(2) of the EACO, the EAC conducted a 30-day public consultation from 5 May to 3 June 2015. As in the past, a “Message from the Chairman” enclosed in the proposed Guidelines highlighted the changes set out in paragraph 4.4 above and explained the consultation mechanism, hence providing a more focused basis for the public to give their views. During the consultation period, members of the public could submit their written representations on the proposed Guidelines to the EAC. The EAC held a public forum on 19 May 2015 from 7:00 pm to 9:00 pm at the Quarry Bay Community Hall to receive oral representations from the attendees. A total of 14 persons attended the above public forum. Before the close

of the public consultation period, the proposed Guidelines were discussed by the LegCo Panel on Constitutional Affairs. The EAC had considered the 132 written representations received during the public consultation period, the oral representations and the views of the LegCo Members before finalising the Guidelines.

Section 3 – Changes after Public Consultation

4.6 After considering all the representations received during the public consultation period, the EAC made a number of amendments to the proposed Guidelines. The major ones include:

- (a) reminding candidates and any other persons that a message published through internet platforms is also an EA, if such message is published for promoting the election of a candidate or prejudicing the election of other candidates. Any costs incurred will have to be included in the candidate's election expenses. If web surfers merely share or forward different candidates' election campaigns through internet platforms for expression of views and do not intend to promote or prejudice the elections of any candidates, such sharing or forwarding does not fulfil the definition of publishing EAs;
- (b) setting out the requirements as stipulated by the Transport Department ("TD") with respect to the display of EAs on buses or other modes of public transport; and
- (c) setting out that interviewers of approved exit poll should not speak to or communicate with candidates or their agents when conducting the poll outside polling stations.

4.7 The EAC issued a press release on 4 September 2015 for the publication of the final Guidelines. The Guidelines were made available for public access at the EAC's website and for distribution at a number of venues, including District Offices and the REO. Each candidate of the election was provided with the Guidelines in CD-ROM format for reference at the time of his/her submission of the nomination form.

CHAPTER 5

APPOINTMENTS AND NOMINATIONS

Section 1 – Appointment of Nominations Advisory Committees

5.1 In accordance with the established practice in previous ordinary elections, free legal advice on the eligibility of the candidates for nomination was available to the ROs and candidates in the DC ordinary election, when necessary. In the 2015 DC Ordinary Election, the EAC appointed six legal professionals as members of the Nominations Advisory Committees (“NACs”) under the EAC (NAC) (DC) Reg to provide the ROs and candidates with legal advice on the eligibility of the candidates, when necessary. Members of the NACs, including Mr Wong Ching-yue, Senior Counsel, Mr Anthony Chan, Mr Kevin Chan, Mr Ho Bing-kwan, Mr Lui Kit-ling and Mr Jin Pao, were experienced members of the legal profession and not affiliated with any political organisations. Their appointment covered the period from 3 July to 17 October 2015 (both dates inclusive), and was published in the Gazette on 3 July 2015. During the abovementioned appointment period, the NACs received 12 requests from the candidates and one request from an RO for legal advice.

Section 2 – Appointment of and Briefing for ROs

5.2 The District Officers (“DOs”) of the 18 Districts were appointed as ROs by the EAC on 4 September 2015. Each DO served his/her own district.

5.3 The EAC Chairman conducted a briefing session for all the ROs on 8 September 2015 at the Leighton Hill Community Hall. The briefing was also attended by the CEO and representative from the ICAC. The EAC Chairman highlighted a number of the major electoral arrangements for the attention of the ROs. They included the nomination procedures, appointment of agents, polling and counting arrangements, matters relating to the no canvassing zone (“NCZ”) and no staying zone (“NSZ”), provisions in the legislation and the Guidelines governing EAs and election expenses, and handling of complaints. The representative from the ICAC briefed the attendees on the major provisions of the ECICO and the procedures for referring complaints related to the ECICO to the ICAC.

Section 3 – Appointment of Assistant Returning Officers

5.4 To provide assistance to the ROs, the EAC appointed a total of 31 Assistant Returning Officers (“AROs”), who were either the Assistant District Officers or Senior Liaison Officers of the relevant District Offices. In addition, in order that legal advice would be made available to the ROs and PROs during the count, 24 AROs (Legal) were appointed by the EAC. They were all legally qualified persons, with the majority of whom came from Department of Justice (“DoJ”) and the rest from the Intellectual Property Department and the Legal Aid Department.

Section 4 – Nomination of Candidates

5.5 The eligibility for nomination and disqualification of candidates are governed by the DCO and the nomination procedures are set out in the EAC (EP) (DC) Reg.

5.6 Nomination of candidates commenced at 9 am on 2 October 2015 and closed at 5 pm on 15 October 2015, during which candidates were required to submit their nomination forms in person to the respective ROs. The two-week nomination period was published in the Gazette on 4 September 2015. By the close of nomination, the ROs received a total of 951 nominations, of which 935 were confirmed valid by the ROs, eight were ruled as invalid and the other eight had been withdrawn before the close of nomination period. The list of all validly nominated candidates for each constituency was published in the Gazette Extraordinary on 26 October 2015.

Section 5 – Briefing for Candidates

5.7 The EAC Chairman held two briefing sessions on 19 and 20 October 2015 at the Kowloonbay International Trade & Exhibition Centre (“KITEC”) to draw the attention of candidates and their agents to the major provisions of the relevant electoral legislation and the Guidelines. The first briefing session was for candidates of the nine Districts on Hong Kong Island and in Kowloon, while the second one for candidates of the other nine Districts in the New Territories and Islands. The two briefings were also attended by the CEO, and representatives from DoJ, ICAC and Hongkong Post. Topics covered at the briefings included polling and counting arrangements, appointment and roles of various types of agents, requirements relating to EAs and election expenses, conduct of electioneering activities, avoidance of corruption and illegal practices, and the need to protect the privacy of electors with respect to personal data used for electioneering purpose. The EAC reminded all the candidates and their agents to peruse in detail the electoral legislation and the Guidelines.

5.8 The EAC Chairman reminded candidates and their agents to take note of the major provisions of the relevant electoral legislation and the Guidelines and strictly adhere to them as well as to co-operate with the relevant departments to ensure that the election would be conducted in an open, fair and honest manner. The EAC Chairman stressed that the EAC and the government departments concerned would strictly enforce the legislation and the Guidelines.

5.9 After the briefing sessions, the ROs, witnessed by those who were present, drew lots to determine the candidate number of each candidate which would appear on the ballot paper, and the designated spots to be allocated to the candidates for display of their EAs.

CHAPTER 6

POLLING AND COUNTING ARRANGEMENTS

Section 1 – Recruitment of Polling and Counting Staff

6.1 In line with the past practice, a service-wide recruitment exercise was launched to invite serving civil servants from various government bureaux/departments to serve as electoral staff. As polling-cum-counting arrangement was adopted, the staff recruited would have to take up both polling and counting duties. Some 25 000 applications were received in this exercise. About 14 700 civil servants from various government bureaux/departments were appointed as PRO, Deputy Presiding Officer (“DPRO”), Assistant Presiding Officer (“APRO”), Polling Officer (“PO”) and Polling Assistant to carry out polling and counting duties.

6.2 Those who were appointed as PROs, DPROs and APROs were senior civil servants. Other junior polling staff were appointed from civil servants of relatively junior ranks. To avoid any actual or perceived conflict of interests, they would not be deployed to work in the polling station(s) of the constituency in which they are registered electors. Each appointee was also required to disclose if they had any close relationship with any candidate, and if so, he or she would not be assigned to work in any polling station in the constituency concerned. This arrangement would help maintain the neutrality and independence of the electoral arrangements and avoid the perception of collusion which might compromise the integrity of the election.

Section 2 – Briefing for PROs

6.3 Given the important role played by PROs and DPROs in the election, the REO organised three management training sessions on 26 and 27 October 2015 at the Queen Elizabeth Stadium to strengthen the quality of their polling management. Topics included crisis management, quality polling service, training on emotional quotient and experience sharing workshop.

Section 3 – Training for Polling and Counting Staff

6.4 The REO organised 11 training sessions from late October to mid-November 2015 at the Queen Elizabeth Stadium and Southorn Stadium in Wan Chai respectively to equip the general polling staff with the necessary knowledge for discharging their duties. Topics included polling and counting procedures, contingency arrangements, and mock counting demonstration and exercise. Polling staff tasked to perform statistical compilation duties were required to attend one additional workshop to provide them with hands-on exercise in discharging the related duties. The REO organised a total of 11 workshops at the Queen Elizabeth Stadium and Southorn Stadium in Wan Chai.

6.5 The REO also organised general briefings for all staff of the DPSs and the Ballot Paper Sorting Stations (“BPSSs”) on the operation of these stations. The general briefing for the DPSs was conducted at the Quarry Bay Community Hall on 10 November 2015, while that for the BPSSs was conducted at the Kowloon Park Sports Centre on 12 November 2015.

Section 4 – Poll Cards

6.6 The REO sent a poll card, together with the “Introduction of Candidates”, a location map of the polling station, a “Guide on Voting Procedure” and an ICAC leaflet reminding electors of the importance of clean elections, to the electors by post at least ten days before the polling day in accordance with section 34 of the EAC (EP) (DC) Reg. For the sake of environmental protection, these documents were printed on recycled paper or paper made from wood-pulp derived from sustainable forests. Furthermore, environmentally friendly ink was used in the printing.

Section 5 – Identifying Venues as Stations

6.7 Of the 935 validly nominated candidates, 68 of them were the only validly nominated candidate for their respective constituencies and were hence elected uncontested. The remaining 867 candidates contested the other 363 seats. The REO had to identify suitable venues as polling-cum-counting stations for these constituencies, with at least one station for each constituency. Important factors for consideration in identifying these venues as polling stations included their accessibility, availability of sufficient space for the purposes of both polling and counting of votes, as well as convenience of use by electors with mobility difficulties or who use a wheelchair. Where possible, the REO selected venues which were used previously as polling stations for the election.

6.8 Successful acquisition of a suitable venue depends on the willingness and co-operation of the owner or management body of the venue and the availability of the venue on the polling day. In general, the process of identifying venues as polling stations was smooth. The REO staff however encountered difficulties in securing permission from owners or management bodies of some private premises, including a few schools and kindergartens, for using their venues and therefore could not use these venues. The majority of the reasons for rejecting the requests were that the venues had already been arranged for other activities on the polling day. In the end, the REO managed to secure 495 venues to be designated as polling stations and these were published in the Gazette on 30 October 2015.

Section 6 – Polling Arrangements

Operation of Polling Station

6.9 Of the 495 polling stations, seven were designated as small polling stations pursuant to section 31(1C) of the EAC (EP) (DC) Reg as they served an electorate of less than 200. These stations were used for polling only. In this election, a total of 466 polling stations were accessible to electors with mobility difficulties or who use a wheelchair, representing approximately 94% of the total number of stations. There were also 24 stations designated as special polling stations to be used for voting by persons with mobility difficulties or who use a wheelchair who found it difficult to access the polling stations originally assigned to them.

6.10 On the day preceding the polling day, the polling staff set up the designated venues as polling stations, in such a way that they could fit the functions

of polling-cum-counting stations. Voting compartments, ballot boxes and ballot paper issuing desks were provided in all the polling stations. Except for the seven small polling stations with less than 200 registered electors, special polling stations and 24 DPSs, all polling stations were converted into counting stations immediately after the close of poll.

6.11 Outside each polling station, areas were designated by the RO as NCZs and NSZs to provide the electors with hindrance-free access to the station. A notice was put up at a prominent spot at or near the station, notifying members of the public of the designation of the NCZs and NSZs.

Polling Hours

6.12 Same as the past ordinary elections or by-elections, the poll started at 7:30 am on the polling day and ended at 10:30 pm on the same day, except for the DPSs set up in penal institutions which had shorter polling hours as detailed in paragraph 6.14 below. The CEO published the polling hours of this election in the Gazette on 30 October 2015.

Design of Ballot Paper and Ballot Box

6.13 Same as the 2011 DC Ordinary Election, candidates were allowed to have their photographs and certain specified particulars relating to them printed on the ballot papers in the 2015 DC Ordinary Election. To ensure that sufficient ballot boxes were provided to the polling stations, the REO had carefully and thoroughly tested the capacity of ballot boxes.

Special Polling Arrangements for Imprisoned, Remanded and Detained Electors

Dedicated Polling Stations

6.14 To enable registered electors who were imprisoned or remanded by the Correctional Services Department (“CSD”) to vote on the polling day, the REO set up 21 DPSs in the penal institutions of the CSD. Owing to security reasons, the poll at these DPSs was conducted from 9:00 am to 4:00 pm. Three DPSs were also set up at police stations for the registered electors who were remanded or detained by the law enforcement agencies (“LEAs”) (other than the CSD) on the polling day and expressed their wish to vote. Since the LEAs might arrest persons who happened to be registered electors any time on the polling day, these DPSs were open from 7:30 am to 10:30 pm just as other ordinary polling stations. Each elector of DPSs was provided with an envelope (on which the name and the code of the relevant DCCA as well as the code of the DPS were marked by the polling staff on issue of the ballot paper) for enclosing his marked ballot paper before putting the aforesaid envelope into the ballot box. This arrangement was to facilitate the subsequent sorting of the ballot paper in a BPSS while preserving the secrecy of vote.

6.15 The venue set-up at all DPSs was basically the same as that of the ordinary polling stations, except that the polling materials were specially designed for security reasons.

6.16 The REO issued all poll cards and other related electoral documents, such as the “Introduction to Candidates” to the imprisoned registered electors at

their prison addresses. Address labels were provided to candidates upon request for sending EAs to this group of electors at prisons by post if the concerned electors had provided the prison addresses as their correspondence address.

Ballot Paper Sorting Stations

6.17 The REO set up a BPSS at Kowloon Park Sports Centre for the sorting of ballot papers cast at the DPSs at the penal institutions of the CSD according to each constituency before they were delivered to the respective MCSs through emergency depots. Another three BPSSs were set up at REO's stores at Caroline Hill Road, Cornwall Street Squash and Table Tennis Centre and Toi Shan Association College for the sorting of ballot papers cast at the DPSs in police stations according to each constituency before they were delivered to the respective MCSs. The ballot papers were then mixed with those at the respective MCSs before they were counted so as to preserve the secrecy of votes. The whole process was open for observation by the public.

Section 7 – Counting Arrangements

6.18 Having regard to the successful implementation of the polling-cum-counting arrangement since the 2003 DC Ordinary Election, the EAC adopted the same arrangement in this election. This arrangement had proved to be more cost-effective in terms of both manpower and financial resources, and the overall election results could be worked out earlier than before. It also reduced the time and risk involved in transporting ballot boxes from the polling stations to the counting stations.

6.19 With the exception of the small polling stations, special polling stations and DPSs, the polling stations were converted into counting stations after the close of poll. For a constituency with two or more counting stations, the station serving the largest number of electors was designated by the CEO as the dominant counting station according to section 31(1B) of the EAC (EP) (DC) Reg. The PRO of the dominant counting station would inform the candidates or their agents on the spot of the counting result of the constituency. In accordance with section 31(1D) of the EAC (EP) (DC) Reg, for a constituency with two or more polling stations of which at least one station was a small polling station, special polling station or DPS, the CEO had to designate a station from the remaining station(s) as the MCS to which the ballot papers cast at the small polling station and/or special polling station would be sent for counting to be conducted.

6.20 To protect the secrecy of votes, ballot papers of the small polling stations, special polling stations as well as all DPSs (after sorting by DCCAs at the BPSSs) were first delivered to the respective MCSs for mixing with the ballot papers therein before counting in accordance with section 76 of the EAC (EP) (DC) Reg.

6.21 An ARO (Legal) was stationed at each District Office to give advice to the PROs in the district and to maintain consistency in handling questionable ballot papers by different PROs. A candidate might appoint counting agents to observe the count and might raise objections to the PRO's decisions on the validity of questionable ballot papers. Samples of valid and invalid ballot papers were posted at each counting station to enhance transparency and ensure fair and consistent determination by the PROs.

6.22 To ensure openness and transparency of the counting process, candidates, their election agents, polling agents and counting agents were allowed to stay inside the polling stations to witness the conversion of the polling stations into counting stations after the close of poll. Candidates and their agents were then permitted to monitor the counting process at a close distance from the counting table, while members of the public and the media were also allowed to observe on site.

6.23 At the commencement of the count, the PRO of a polling station assumed the role of the counting supervisor. He/She was assisted by the polling staff, who then took up the role of counting staff. He/She was also responsible for determining the validity of questionable ballot papers in the polling station pursuant to section 79 of the EAC (EP) (DC) Reg.

Section 8 – The Fast Response Team (“FRT”)

6.24 In line with the practice since the 2008 LegCo General Election, a FRT comprising experienced personnel was appointed to conduct random checks on the operation of the polling stations and the performance of the polling staff to ensure that the stipulated electoral procedures and requirements were strictly followed.

6.25 The FRT comprised seven members. Each member of the FRT took care of polling stations in two to four districts. Apart from conducting inspection of polling stations and advising PROs to take remedial or improvement measures where necessary, the FRT was also tasked to deal with enquiries about electoral arrangements made by the ROs and PROs, and to render immediate advice and

assistance to them. The FRT had to report to the Central Command Centre (“CCC”) on any major irregularities and problems observed, and to handle emergency cases relating to polling stations as directed by the CCC.

Section 9 – Contingency Measures

6.26 The REO formulated the following arrangements to cater for inclement weather or other emergencies:

- (a) postponement or adjournment of the poll or the count in one or more polling/counting stations;
- (b) extension of polling hours if a substantial portion of the polling hours was lost because of flooding, power failure or other emergencies in one or more polling stations;
- (c) designation of alternative polling/counting stations to serve as replacement or additional polling/counting stations in the event that the original stations, for one reason or another, could no longer function properly or be accessed by electors;
- (d) setting up of an emergency depot in each of the 18 Districts to provide logistic support to respective polling stations in each district; and setting up of a fall-back Statistical Information Centre (“SIC”) in Yau Ma Tei Car Park Building to compile statistical returns collected from polling/counting stations; and

- (e) preparation of public announcement notices in the event that any of the contingency arrangements set out in paragraph 6.26 (a), (b) and (c) above had to be implemented.

6.27 Most of the polling stations were set up at schools and organisations, which would resume operation in the morning of the day after the polling day, such as post offices. In this connection, the REO had to vacate these premises before they resumed operation in the morning of 23 November 2015. The REO drew up a detailed contingency plan to cater for the event that the count could not be completed by 6:00 am on 23 November 2015 and had to take place in a reserve counting station.

CHAPTER 7

PUBLICITY

Section 1 – An Introductory Note

7.1 Publicity is an important element in the conduct of an election. It arouses the awareness of the members of the public and appeals to them to actively participate in the election either by registering as electors, seeking candidature or participating in canvassing/promotional activities. It also serves to disseminate the relevant electoral information to candidates and electors in an efficient and proper manner, and most importantly, to remind electors to vote on the polling day. In the 2015 DC Ordinary Election, the EAC and the government departments concerned contributed much to the publicity of the election.

7.2 Apart from the VR campaign described in Chapter 3, other publicity activities organised are detailed in the following paragraphs.

Section 2 – Major Publicity Activities

7.3 Major publicity activities for the 2015 DC Ordinary Election were launched on 22 September, and lasted for nine weeks until the polling day on 22 November. The objectives of the activities were to promote general awareness of the election and to call upon registered electors to vote. They also encouraged nominations of candidates, publicised the electoral procedures, and promoted clean and fair elections. These publicity activities were coordinated by the CMAB, and

implemented with the assistance of the HAD, ISD, ICAC and REO. They included broadcasting APIs on television and radio, setting up a dedicated website, displaying posters, putting up banners and lamppost buntings at busy pedestrian spots, and advertising on the Internet and public transport and at government venues. In addition, to enhance general knowledge on the voting arrangements, the government departments concerned produced two APIs to remind electors to follow the proper voting procedures, and to remind electors who use a wheelchair or have mobility difficulties to apply in time for re-allocation to a special polling station should they find the designated polling station difficult to access, and the REO would, where circumstances permit, arrange Rehabus upon request to transport them to and from the polling station.

7.4 To provide electors of ethnic minorities and those who are illiterate in Chinese or English with information of this election and the voting procedures, election briefs and voting procedures were translated into nine languages and uploaded onto the dedicated website for the 2015 DC Ordinary Election. Relevant information was also uploaded onto the website of the Race Relations Unit under HAD and sent to six support centres for ethnic minorities to arouse their awareness of this election. The Government also published advertisements in the newspapers and newsletters targeting the ethnic minorities to encourage them to seek candidature and vote. Besides, information on voting procedures and appeals for registered electors to vote were broadcast in ethnic minority languages on the radio.

7.5 The ISD launched a dedicated website containing various information relating to the 2015 DC Ordinary Election.

Section 3 – Other Publicity Activities by the EAC

7.6 On 19 and 20 October 2015, the EAC Chairman conducted two briefing sessions for the candidates at the KITEC, which were covered by the media. The EAC Chairman and the two Members also met with the media and updated them on the progress of the election at various intervals on the polling day.

7.7 Mock polling stations at Leighton Hill Community Hall, Henry G. Leong Yau Ma Tei Community Centre, Tai Po Community Centre and Tuen Mun Town Hall were open to the public from 18 to 21 November 2015 to facilitate members of the public to familiarise themselves with the station set-up and voting procedures. On 17 November 2015, the EAC Chairman met with the media at Leighton Hill Community Hall to introduce the arrangements of the 2015 DC Ordinary Election and demonstrate the voting procedures.

7.8 Before the polling day, the REO issued press releases from time to time to keep the public informed of various important events at different stages of the election.

Section 4 – Publicity on Clean Elections

7.9 To promote the importance of clean elections, the ICAC launched a series of educational and publicity activities on the theme of “Abide by the Rules,

Support Clean Elections” for the 2015 DC Ordinary Election since August 2015, which included:

- (a) conducting briefing sessions to explain the major provisions of the ECICO to candidates, their election agents, helpers and members of political parties/local organisations;
- (b) producing an information booklet and a checklist to highlight the issues and relevant legislative requirements requiring the attention of candidates and their election agents in electioneering;
- (c) distributing the “Guidelines for Electors” leaflet and “Clean Elections Information Pack” to electors, arranging talks for senior and young electors, and disseminating clean election messages to residents through the platform of public housing estate advisory bodies so as to remind electors of the importance of clean elections;
- (d) producing leaflets on “anti-vote-rigging” for distribution to electors who were newly registered and had updated their particulars to remind them not to contravene the law;
- (e) launching new TV and radio APIs on the theme of “Say No to Electoral Brides, for Yourself and Hong Kong” together with online advertisements and publicity posters to enlist public support for upholding a clean election culture;
- (f) broadcasting filmlets on “Support Clean Elections” on the TVs at lobbies of various public facilities, housing estates/commercial buildings, uploading e-banners onto various websites, and

publishing feature articles on clean elections on newspapers and district publications to publicise the message of “anti-vote-rigging” and “anti-bribery”;

- (g) staging roving and mobile van exhibitions at popular spots such as shopping malls, public housing estates, private residential premises, tertiary institutions etc. in all 18 Districts in the territory to reach out to electors;
- (h) setting up a dedicated website to provide relevant information to the public; and
- (i) setting up a “Clean Election Enquiry Hotline” to answer public enquiries on the ECICO and educational and publicity activities.

PART THREE

ON THE POLLING DAY

CHAPTER 8

CENTRAL SUPPORT

Section 1 – The Central Command Centre

8.1 The CCC was set up at the REO's office at KITEC to oversee electoral arrangements on the polling day for the purpose of providing a wide range of services to electors, candidates/agents, ROs/PROs and members of the public. The REO and the relevant sections of the bureau/departments concerned operated in the CCC to facilitate communication and co-ordination. The CCC was under the direct supervision of the CEO who was deputised by the Principal Electoral Officer ("PEO"). This command structure significantly enhanced the ability of the CCC to respond swiftly to various problems associated with the election on the polling day.

8.2 At the district level, District Liaison Officers from District Offices were responsible for liaison work among individual polling stations, the respective ROs and the CCC.

Statistical Information Centre

8.3 An SIC was set up inside the CCC for compiling and collating the hourly voter turnout statistics of all polling stations and the counting results from each counting station. Voter turnout figures were made available to the public on an hourly basis through press releases and the dedicated website for the 2015 DC Ordinary Election.

Section 2 – The Complaints Centre

8.4 A Complaints Centre (“CC”) was set up at the REO’s office at Harbour Centre to handle complaints from the public.

8.5 Complainants could lodge complaints by telephone, fax or e-mail. The CC was manned by staff of the EAC Secretariat and operated throughout the polling hours. Details on the work of the CC and the complaints received on the polling day and during the complaints-handling period are set out in Chapter 12.

CHAPTER 9

THE POLL

Section 1 – Polling Stations, Polling Hours and Voter Turnout

9.1 On the polling day, all 495 polling stations were in operation, of which 466 (94%) were accessible to electors with mobility difficulties or who use a wheelchair. The polling hours were from 7:30 am to 10:30 pm. Apart from these ordinary polling stations, the REO set up 21 DPSs for registered electors imprisoned or remanded under the custody of the CSD to cast their votes on the polling day. Owing to security reasons, polling hours for DPSs set up at the penal institutions of the CSD were from 9:00 am to 4:00 pm. The REO also set up DPSs at the Happy Valley Police Station, Cheung Sha Wan Police Station and Tin Sum Police Station for registered electors remanded or detained by the LEAs other than the CSD (including the Police, ICAC, Customs and Excise Department and Imm D, etc.) on the polling day to cast their votes. Since the LEAs might arrest persons who happened to be registered electors any time on the polling day, the DPSs set up at police stations were open from 7:30 am to 10:30 pm. In general, the poll was conducted smoothly and efficiently.

9.2 On the voter turnout, a total of 1 467 229 electors (including 709 electors who cast their votes at the DPSs) cast their votes in the contested constituencies, representing 47.01% of the electoral size of 3 121 238. Both the voter turnout and turnout rate were higher than those in the 2011 DC Ordinary Election (1 202 544 electors at the voter turnout rate of 41.49%). A detailed breakdown of the voter turnout rates by districts for this election is set out at **Appendix II**.

Section 2 – Exit Poll

9.3 The REO received applications from four organisations for conducting exit polls on the polling day. In considering these applications, the REO followed the principles set out in Chapter 14 of the Guidelines. Approval would normally be given to applications provided that the conduct of exit polls would not compromise the fairness and impartiality of the election. In accordance with the aforesaid principle, the applications from the four organisations were approved. The list of these organisations was uploaded to the dedicated website for the 2015 DC Ordinary Election and displayed at a prominent spot outside the relevant polling stations for public inspection.

CHAPTER 10

THE COUNT

10.1 In the light of past experience, the polling-cum-counting arrangement was adopted for this election. Under this arrangement, all polling stations, with the exception of the small polling stations with less than 200 registered electors, special polling stations and the DPSs, were converted into counting stations immediately after the close of poll.

10.2 To ensure openness and transparency of the counting process, candidates, their election agents, polling agents and counting agents were allowed to stay inside the polling stations to observe the conversion of the polling stations into counting stations. The time of the conversion process varied from station to station, and the average was about one hour. The media and members of the public were allowed to enter into the stations after the conversion. Candidates, their agents, members of the public and the media were permitted to observe the count in the counting station.

10.3 The ballot boxes containing ballot papers cast at the small polling stations and the special polling stations were transported direct to the respective MCSs and counted therein. For ballot papers cast at the DPSs, they were sent to the relevant BPSS for sorting according to constituency before they were put in a receptacle and delivered to the respective MCSs for counting. The sorting process was open to the public for observation. To protect the secrecy of votes, these ballot papers would then be mixed with those cast at an ordinary polling station which was designated as a MCS before they were counted in accordance with

section 76 of the EAC (EP) (DC) Reg.

10.4 As in the 2011 DC Ordinary Election and subsequent DC by-elections, the invalid ballot papers as defined under section 78 of the EAC (EP) (DC) Reg would be set aside during the counting process and would not be counted. Candidates, their election agents and counting agents could examine these invalid ballot papers but they could not make any representations. Moreover, ballot papers as considered with doubtful validity by the PRO in accordance with section 76 of the EAC (EP) (DC) Reg would also be set aside as questionable ballot papers. The validity of the questionable ballot papers would then be determined by the PRO in accordance with section 79 of the EAC (EP) (DC) Reg.

10.5 The PRO was responsible for determining the acceptance or rejection of questionable ballot papers. The AROs (Legal) would offer assistance to the PROs in determining the validity of these questionable ballot papers. An analysis of the ballot papers that were not counted (including those which were invalid and questionable ones which were rejected by the PROs after consideration) is shown at **Appendix III**. In addition, an analysis of invalid ballot papers kept by the PROs is shown at **Appendix IV**.

10.6 Upon completion of the count, the PROs of all counting stations made known the counting results to candidates or their agents present at the counting station. Thereafter, the candidates or their agents would have the opportunity to request for a recount of votes. After it had been ascertained that there was no request for recount or further request for a recount¹, the PROs would report the

¹ Or if such request is rejected by the PRO as being unreasonable in accordance with section 80A(5) or 80B(5) of EAC (EP)(DC) Reg.

results of the count conducted in their respective stations to the SIC. The SIC would then verify the results and pass the results to the relevant RO by fax. If there were two or more counting stations in a constituency, the SIC would first verify and consolidate the counting results from all counting stations and then pass the overall result of the constituency to the PRO of dominant counting station. The PRO would then inform the candidates or their agents on the spot to ascertain whether there was any request for recount. After confirmation of the election result of the constituency, the RO would declare the final election results by posting a notice in his/her office. Thereafter, he/she would fax a copy of the signed notice to the SIC, and the SIC would inform the PROs who would display a notice of the counting results outside the counting stations to inform the candidates, their agents, the media and members of the public of the counting results of the counting stations.

10.7 The count and determination of questionable ballot papers were conducted smoothly in general in all counting stations. The whole counting process took about 6.5 hours to complete after the close of poll. The first result was announced at 1:10 am on the day following the polling day and the last result was announced at 5:55 am. The EAC considered that the counting process was completed smoothly and was satisfied with the overall electoral arrangements for this election.

10.8 The election results of the 18 Districts were published in the Gazette Extraordinary on 30 November 2015 and are now re-produced at **Appendix V** for reference.

CHAPTER 11

EAC VISITS

11.1 The Chairman and the two Members of the EAC visited a total of 19 polling stations covering all the 18 Districts in the territory, five DPSs at Stanley Prison, Lai Chi Kok Reception Centre, Pik Uk Correctional Institution, Cheung Sha Wan Police Station and Tin Sum Police Station, as well as the BPSS at the Kowloon Park Sports Centre. The Chairman and the two Members of the EAC, depending on whether the constituencies to which they belonged were contested or not, first cast their votes at their respective constituencies and then proceeded on visiting the polling stations in various districts according to their respective visit programmes. Moreover, they met with the media together in the morning at the Hong Kong Park Sports Centre and then in the afternoon at the Kowloon Park Sports Centre to provide electoral statistics and answer questions from the media. The EAC closely monitored the progress of the poll on the polling day.

11.2 Towards the end of the poll, the EAC Chairman and the two Members visited the polling station at the CCC Kei Wan Primary School (Aldrich Bay) to observe its conversion into a counting station. They considered that the whole process was conducted smoothly and satisfactorily.

11.3 At around 11:20 pm, the EAC Chairman and the two Members together with the Secretary for Constitutional and Mainland Affairs accompanied the CE to open and empty a ballot box at the CCC Kei Wan Primary School (Aldrich Bay), and observe the count. Afterwards, the EAC Chairman and the two Members met with the media to brief them on the overall voter turnout, the count and arrangement on the declaration of election results. They also answered the

questions raised by the media. All counting work was completed at 5:55 am on 23 November 2015. After that, the EAC Chairman met with the media at the CCC. The EAC considered that the election was conducted in an open, fair and honest manner and the polling and counting process of the election was smooth in general. It was satisfied with the overall electoral arrangements.

PART FOUR

VOICES FROM THE PUBLIC

CHAPTER 12

THE COMPLAINTS

Section 1 – A General View

12.1 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 revealed the deficiencies in certain aspects of the electoral arrangements and helped the EAC make better arrangements for future elections.

12.2 The complaints-handling mechanism also provides a monitoring system for candidates to exercise mutual checks among themselves and through these complaints, they will better understand the requirements of the electoral legislation and guidelines. The EAC is committed to handling complaints received fairly and efficiently and ensuring that the complaints-handling mechanism is not abused.

Section 2 – The Complaints-handling Period

12.3 The complaints-handling period for the 2015 DC Ordinary Election started from 2 October 2015, i.e. the day when the nomination period commenced, and ended on 6 January 2016, i.e. 45 days after the polling day.

Section 3 – The Complaints-handling Parties

12.4 A total of five designated parties were responsible for handling

complaints during the complaints-handling period. They were the EAC, ROs, Police, ICAC and the PROs, who discharged the duties on the polling day only. Complainants could lodge their complaints with any of the above parties. Each of these parties had their respective areas of responsibilities depending on the nature of the complaints. A Complaints Committee (“CCm”) was set up by the EAC to deal with cases that were within its jurisdiction and not covered by any statutory provisions involving criminal liability. The CCm comprised the Chairman and the two Members of the EAC and a District Judge nominated by the Chief Justice. The CCm was supported by the EAC Secretariat. Division of work among the complaints-handling parties was as follows:

- (a) the ROs were responsible for handling complaints of a minor nature under the authority delegated to them by the EAC, for example, those relating to EAs, electioneering activities conducted in private premises, use of sound amplifying devices, etc.;
- (b) Police handled complaints that involved criminal liability, breaches of the EAC (EP) (DC) Reg and criminal damage of EAs;
- (c) the ICAC attended to cases that involved breaches of the ECICO, Prevention of Bribery Ordinance (Cap 201) and ICAC Ordinance (Cap 204); and
- (d) the PROs handled complaints received at the polling stations on the polling day and took action on those cases which required immediate attention, for example, unlawful activities carried out in the NCZ or

NSZ, use of sound amplifying equipment in the vicinity of the station, etc.

12.5 The EAC Secretariat assumed the role of the co-ordinator for collating complaint-related statistical information from other parties and compiling a consolidated report for submission to the EAC on a weekly basis during the complaints-handling period.

Section 4 – The Number and Nature of Complaints

12.6 By the end of the complaints-handling period on 6 January 2016, a total of 8 824 complaints were directly received from the public by the aforementioned five parties. Details are as follows:

<u>Complaints-handling Party</u>	<u>Complaints Received</u>
CCm	1 557
ROs	4 592
Police	1 906
ICAC	264
PROs	505
	<hr/>
	Total: 8 824

The majority of the complaints were related to EAs (4 006 cases), disturbances to electors caused by loudspeakers/broadcasting vehicles/telephone canvassing/other activities (1 564 cases), and electioneering activities on private premises (546 cases). A breakdown of the complaints by receiving party and nature is shown at **Appendices VI (A) – (F)**.

12.7 The EAC notes that the number of complaints relating to EAs received in this election (4 006 cases) has increased substantially by 39% when compared with that in the 2011 DC Ordinary Election (2 875 cases). It reveals that the increase in both the numbers of elected seats and validly nominated candidates have led to keener competition in this election. Moreover, members of the public generally played a more active part in the election and would be more eager to lodge complaints to the complaints-handling parties whenever they had detected breaches against the regulations and Guidelines. As in past elections, complaints received during the complaints-handling period, in particular on the polling day were predominantly related to unauthorised display of EAs. This phenomenon is understandable since candidates generally considered displaying EAs in places frequented by electors an effective electioneering strategy. However, it also reveals that many candidates failed to strictly comply with the requirements as stipulated in the relevant legislation and the Guidelines. As such, the EAC must reiterate that candidates should strictly comply with the relevant legislation and the Guidelines in the display of their EAs. In this regard, the existing Guidelines on election-related activities have, based on past experiences, set out detailed guidelines for candidates to follow. Besides, the EAC Chairman reminded candidates again at the briefing sessions that they should comply with the electoral legislation and Guidelines in conducting electioneering activities. The EAC will continue to monitor the relevant situation closely and remind candidates that they must observe the legislation and the Guidelines.

Section 5 – Handling of Complaints on the Polling Day

12.8 On the polling day, as mentioned in paragraph 8.4 above, a CC was set up in the REO's office at the Harbour Centre to handle complaints. The CC was operated by staff of the EAC Secretariat. ROs also set up district command centres at their offices to receive and handle complaints. The PROs received and handled complaints on the spot at the polling/counting stations. Moreover, designated police officers were on duty in the police stations in the 18 Districts to attend to complaints. Designated ICAC officers also manned a complaint hotline to deal with incoming calls during the polling hours.

12.9 The CC, ROs and PROs received a total of 2 429 complaint cases on the polling day. The majority of the complaints involving on the spot incidents (for example, unauthorised display of EAs, illegal canvassing in NCZs, noise disturbances to electors caused by loudspeakers, etc.) were expeditiously dealt with and resolved. For the more complicated cases, they would take a longer time to handle or they need to be referred to relevant authorities for investigation and follow-up actions.

12.10 Of the 2 429 cases handled by the CCm, ROs and PROs on the polling day, 1 908 cases (i.e. 78.6%) were resolved before the close of the poll.

12.11 The CC received a total of 270 cases on the polling day. 154 of them required further investigation while the remaining 116 cases were resolved on the polling day.

12.12 A breakdown of complaint cases received on the polling day is shown at **Appendices VII (A) – (F)**.

Section 6 – The Outcome of Investigations

CCm and ROs

12.13 As at 6 January 2016 (when the complaints-handling period ended), CCm and ROs received 1 858 cases and 5 625 cases respectively (**Appendices VI (B) and (C)**). Of the cases which have been dealt with, one case was found substantiated by the CCm while 2 285 cases were found substantiated or partially substantiated by ROs. A total of 1 717 warning letters have been issued to the infringing parties. There were still 472 cases under investigation.

12.14 A breakdown of the outcome of investigations as at 25 January 2016 is shown at **Appendices VIII (A) and (B)**.

Police and ICAC

12.15 Out of the 2 072 cases handled by the Police (**Appendix VI (D)**), 33 cases were found substantiated after investigation. ^{Note (a)} The ICAC handled 460 cases (**Appendix VI (E)**) and none was found substantiated. ^{Note (b)} There were still 816 cases under investigation by these two parties.

12.16 A breakdown of the outcome of investigations as at 25 January 2016 is shown at **Appendices VIII (C) and (D)**.

The report was published on 15 March 2016 and the following footnotes are provided on 20 April 2016 for supplementary information.

Note (a) Among the 2 072 cases received by the Police, the investigation of 1 656 cases was completed and 33 cases were found substantiated. There were still 416 cases being followed up. Please refer to Appendix VIII(C) of the report for details.

Note (b) Among the 460 cases received by the ICAC, the investigation of 60 cases was completed and none was found substantiated. There were still 400 cases being followed up. Please refer to Appendix VIII(D) of the report for details.

Section 7 – Election Petitions

12.17 Six election petitions regarding the 2015 DC Ordinary Election had been lodged by 30 January 2016 (i.e. the deadline for lodging election petitions). The details are set out in the ensuing paragraphs.

12.18 Mr YIP Yiu-shing, Chris, one of the four candidates of the Cheung Wah Constituency, lodged an election petition against Mr CHAN Yuk-ming, who was the elected candidate in the same constituency, on the grounds that Mr CHAN and another made defamatory statements against him.

12.19 Mr WONG Ka-ho, another candidate of the Cheung Wah Constituency, lodged an election petition questioning the election of Mr CHAN Yuk-ming in the same constituency on the grounds that the RO had not handled his complaint properly resulting in the occurrence of material irregularity in relation to the election.

12.20 Mr HO Yin-fai, one of the two candidates of the Chi Choi Constituency, lodged an election petition against Mr WU Chi-kin, who was the elected candidate in the same constituency, and the RO on grounds of corrupt or illegal conduct at the election.

12.21 Mr WONG Yun-keung, Simon, one of the three candidates of the Shek Wu Hui Constituency, lodged an election petition against Mr LAM Cheuk-ting, who was the elected candidate in the same constituency, on the grounds that Mr LAM or his agent had made materially misleading statements of facts about him.

12.22 Mr HUNG Lung-chuen, one of the three candidates of the Kornhill Constituency, lodged an election petition against Ms LEUNG Wing-man (Bonnie), who was the elected candidate in the same constituency, and the RO on the grounds that Ms LEUNG had engaged in illegal conduct by publishing false or misleading statements about him and publishing EAs with false claims of support resulting in the occurrence of material irregularity in relation to the election.

12.23 Mr WONG Shing-kwong (Jack), one of the two candidates of the Wai King Constituency, lodged an election petition against Mr CHAN Kai-wai, who was the elected candidate in the same constituency, and the Secretary for Justice on the grounds that Mr CHAN had made false statements about him.

12.24 The abovementioned cases are yet to be dealt with by the court.

PART FIVE

AFTER THE POLLING DAY

CHAPTER 13

THE REVIEW AND RECOMMENDATIONS

Section 1 – A General Remark

13.1 The EAC considers that the 2015 DC Ordinary Election has been conducted in an open, fair and honest manner and is generally satisfied with the electoral arrangements. The EAC, following past practices, 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 findings and the related recommendations are set out in the ensuing paragraphs.

Section 2 – Operational Matters

(A) Difficulties in Identifying Suitable Venues as Polling Stations

13.2 In the 2015 DC Ordinary Election, the REO set up a total of 495 ordinary polling stations across the territory for electors to cast their votes. Certain difficulties were encountered in the course of identifying and acquiring venues for use as polling stations.

13.3 The foremost factors for the REO's consideration in identifying venues are their availability of sufficient space to accommodate the number of electors in the constituency concerned and their accessibility. As school premises are usually conveniently located and more spacious, more than half of

the polling stations were set up in schools in past elections. Successful requisition of suitable venue for use as polling station depends largely on whether its management is willing to provide assistance, or whether the venue has already been arranged for other activities on the polling day. In order to secure suitable venues in time, the REO started to identify venues and conduct site inspections as early as late 2014.

13.4 In the 2015 DC Ordinary Election, it was necessary for the REO to make request to 273 schools for setting up polling stations. In order to facilitate the REO for identifying and requisitioning venues, the EAC Chairman personally sent a letter to the management of divers school sponsoring bodies in early March 2015 to appeal to them to make available their school premises for use as polling stations, both as an attainment of social responsibility of the school sponsoring bodies and also setting good example of civic-mindedness. Although the EAC Chairman's appeal had met with many positive responses, for various reasons, quite a number of schools had replied that their premises were unavailable for use as polling stations. Under these circumstances, the REO could only turn to alternative suitable venues in and outside the constituency as far as possible. However, due to very limited choices, some of the polling stations were eventually set up in venues where the location was relatively further away for electors or could not facilitate electors with mobility difficulties.

13.5 **Recommendation:** The EAC understands that the REO has made its best efforts to identify suitable venues for use as polling stations. However, it has encountered certain difficulties in identifying and requisitioning the venues.

The EAC appeals to all schools and the school sponsoring bodies as well as other public bodies and local organisations to provide actively assistance making their venues available for use as polling stations in elections when necessary. The REO should continue its efforts to identify and secure suitable venues as polling stations to facilitate electors to cast their votes.

(B) Size Specifications for Free Postage of EAs

13.6 During the election, the REO received comments of individual candidates and political parties that the size specifications imposed by the Hongkong Post for free postage of EAs in this election were too stringent and rigid. The Hongkong Post did not give any allowance and rejected posting even though there was only slight deviation from the specified size, which was caused by the folding of advertising materials in making the mail items slightly smaller than the minimum size prescribed.

13.7 Section 102(2) of the EAC (EP) (DC) Reg sets out the prescribed size of EAs for free postage. The legislation stipulates that such mail item must be not larger than 175 mm x 245 mm and not smaller than 90 mm x 140 mm in size. This requirement has already been clearly stated in the Guidelines and the relevant forms. As the size limits have been specified in the subsisting legislation, candidates must adhere to the prescribed dimensions in designing and producing their EAs for delivery by post. In handling the EA specimens submitted by candidates in this election, the Hongkong Post found that the specimens of certain candidates were not in compliance with the size requirement of not smaller than 90 mm x 140 mm and therefore required the

candidates concerned to make rectifications before approval for mailing was granted to them.

13.8 **Recommendation:** The EAC considers that given the size requirement of EAs for free postage is stipulated under the legislation, the Hongkong Post must strictly enforce the requirement in order to avoid any doubt on whether it is acting in accordance with the legislation or is fair to all. The REO and the Hongkong Post should further remind candidates of the statutory requirements at the briefing session for candidates in future.

(C) Stepping up of Removal Action against Offending EAs

13.9 It has been an established practice that the District Offices and various government departments, including the Food and Environmental Hygiene Department (“FEHD”), would coordinate efforts on monitoring and removing EAs displayed without authorisation of the relevant authorities in each election. As the number of offending EAs displayed by candidates in various districts usually increases as it gets nearer to the polling day, there is a greater need to step up the removal action accordingly.

13.10 To further step up the removal action for this election, the HAD has proposed to the FEHD that the number of clearance teams made up of FEHD staff in various districts be increased from one to two on the polling day and its preceding Friday and Saturday, so as to ensure that there was sufficient manpower to undertake the removal action timely. The FEHD has responded positively and agreed to deploy additional staff for the removal action.

13.11 **Recommendation:** The EAC is pleased to note that successful collaboration of the two departments has enabled the removal action to proceed effectively. The EAC suggests that, where circumstances permit, similar arrangement be adopted in future elections. On the other hand, unauthorised display of EAs is an offending act. Candidates have the responsibilities to comply with the relevant legislation or they would be subject to criminal liability. The surge in the number of offending EAs near the polling day will impose undue burden on the society as the Government is required to commit a huge amount of manpower to carry out removal action. To ensure that the election is conducted in a fair manner, the EAC will continue to appeal to candidates that EAs should only be displayed with authorisation of the relevant authorities.

(D) Amendment to the Contents of Introduction to Candidates

13.12 As in previous elections, the REO published Introduction to Candidates for the election, which were sent together with the poll cards to electors by post before the polling day. In addition to each candidate's number that will appear on the ballot paper, an Introduction to Candidates also contains the candidate's election platform and/or a self-introductory message provided by the respective candidate. The contents, nature and presentation of the election platform or message are exclusively the idea and work of the candidate himself/herself. As stated in paragraph 3.59 of the Guidelines, the content of an Introduction to Candidates will not be subject to alteration or editing by the REO unless it is considered to be indecent, defamatory, unlawful,

or contain information not relating to the promotion of candidature of the candidate concerned.

13.13 On 15 October 2015, the REO received the above-mentioned message from a candidate of the Cherry Constituency of the Yau Tsim Mong District in relation to his election platform for the Introduction to Candidates, and noted the phrase “establishing Hong Kong as a country” therein. The REO then sought legal advice from the DoJ on the issue and was advised that the phrase was fundamentally inconsistent with the Basic Law, particularly Article 1 which stipulates that “The Hong Kong Special Administrative Region is an inalienable part of the People’s Republic of China.” The DCO provides that all candidates must declare in the nomination form to the effect that he/she will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region and, in this regard, the candidate concerned had already made the required statutory declaration in the nomination form. As such, from the legal perspective, it was considered that the phrase concerned would most probably amount to an indication that the candidate was to act against the Basic Law and the contents of the declaration¹.

13.14 Having considered the relevant legislation and paragraph 3.59 of the Guidelines mentioned above, and having reported to and obtained endorsement from the EAC, the REO wrote to the candidate on 20 October 2015 requesting him to delete the phrase concerned in his election platform and submit a

¹ Section 104(1) of the EAC (EP) (DC) Reg provides that “a person who, in an election related document, makes a statement which that person knows to be false in a material particular or recklessly makes a statement which is incorrect in a material particular or knowingly omits a material particular from an election related document commits an offence.”

revised version, otherwise the phrase would be deleted from the Introduction to Candidates when it was printed. The candidate replied to the REO on the same day that he objected to the deletion and would not submit any revised version. As a result, based on the legal advice sought, the REO redacted the relevant phrase which would most probably amount to an unlawful content from the Introduction to Candidates when it was printed. As for the parts not involving any unlawful contents, they were all retained without any alteration by the REO even though they were considered political in nature.

13.15 **Recommendation:** The EAC notes that the Introduction to Candidates was published by the REO for the election and for distribution to the electors. Being the publisher of the publication, the REO has the responsibility to ensure that its contents were lawful and decent in presentation. Neither the EAC nor the REO held any political stance and there was no political consideration in handling the case. The EAC appreciates that candidates should be allowed as far as possible to elucidate their election platform and present their vision of candidature in the Introduction to Candidates. However, it is DoJ's legal advice that the contents of the materials submitted by candidates would most probably amount to an unlawful act, the REO has the responsibility to act according to the legal advice with a view to ensuring that the publication would not contain any unlawful contents. For the case concerned, before amending the contents of the election platform submitted by the said candidate in accordance with paragraph 3.59 of the Guidelines, the REO had already sought and fully considered the relevant legal advice and reported to the EAC the considerations and justifications for the case. The EAC considers that in dealing with similar cases in future and

bearing in mind the overall interest of the election, the REO should continue to take a prudent approach, seek clear legal advice from the DoJ and endeavour to strike a balance between various factors of consideration.

(E) Ballot Paper Issuing Desk Too Far From Voting Compartment

13.16 As the polling station at the Tai Hing Sports Centre (Code: L1001) in Tuen Mun was rather spacious, the design of the setting up of the polling stations had made maximum use of space of the venue to facilitate the movement of people inside the polling station. However, the arrangement, at the same time, had created a considerable distance of about 30 metres between the ballot paper issuing desks and the voting compartments. After visiting the polling station, an EAC Member pointed out that electors had to take some time to walk to the voting compartment for marking their ballot papers after receiving the ballot papers at the issuing desks. This might cause inconvenience to the electors, especially the elderlies.

13.17 **Recommendation:** The EAC is of the view that the REO should pay attention to the distance between the ballot paper issuing desks and voting compartments in designing the setting of a polling station in future. Whilst it is important to provide sufficient space inside the polling station to ensure unobstructed and orderly movement of people during the peak hours, the considerable distance between the ballot paper issuing desks and the voting compartments will cause inconvenience to electors. The REO should make appropriate arrangement having regard to the different circumstances of each polling station, such as the number of electors involved.

(F) The Two Cardboard Screens on Ballot Paper Issuing Desk being Too High

13.18 An EAC Member observed that the two cardboard screens used for protecting the secrecy of electors' information in the poll register placed on the ballot paper issuing desk were too high. This might hinder eye contact between an elector and the polling staff at the ballot paper issuing desk and, therefore, affected effective communication between them.

13.19 **Recommendation:** At present, the cardboard screens placed on the ballot paper issuing desk are about 40 cm in height while the ballot paper issuing desk is about 75 cm in height. Therefore, the cardboard screens are at a height of about 115 cm from the ground. In some circumstances, this may hinder communication between an elector and the polling staff at the ballot paper issuing desk. To improve the situation, the EAC considers that the REO should suitably reduce the height of the cardboard screens when ordering such cardboard screens in future so as to strike the right balance between protecting the privacy of the elector and effective communication.

(G) Delay in the Opening of A Polling Station

13.20 The electric gate at the main entrance of the polling station at Shau Kei Wan Post Office (Code: C0501) could not be opened in the morning of the polling day. As a result, the polling station could not commence operation punctually at 7:30 am and the start of the poll was delayed. The caretaker later found out that the emergency stop button outside the gate was pressed on

for no reason and this caused the malfunctioning of the electric gate. The caretaker, therefore, returned to the office of the Post Office immediately and took the key to restart the electric gate. Soon after the electric gate resumed normal operation at 7:40 am, the polling station was open to electors for voting.

13.21 To ensure that all polling stations were open for 15 hours for electors to vote, the EAC decided to exercise its power under section 5(g) of the EACO to extend the polling hour of this polling station for 10 minutes. As such, the poll of the station closed at 10:40 pm instead of the scheduled time at 10:30 pm as originally promulgated. In this connection, the EAC issued a press release at 5:39 pm to announce the above arrangement. A notice on the extension of the polling hour was also posted at the polling station.

13.22 **Recommendation:** The above incident was the result of a technical failure but it reflected that the preparatory work for setting up polling stations could be further improved. The EAC is of the view that the REO should enhance its training for polling staff and remind them to inspect the access facilities of the polling station on the set-up day and prior to the opening of the station on the polling day to ensure everything is in order. Polling staff should also be in close contact with the caretaker of the venue so as to ensure that timely assistance can be arranged in the event of a breakdown of facilities.

(H) Correction on Designation of Constituency for Some Electors

13.23 In the morning of the polling day, a candidate from the Wah Fu North Constituency of the Southern District saw that the PRO of the

constituency was notified by the REO to update the poll register by re-assigning four electors to the constituency. The candidate expressed his view to the media that the arrangement made by the REO was not justified.

13.24 According to the REO's report on the incident, its election hotline team received enquiries from electors before the election alleging failure to receive their poll cards, or receipt of poll cards and/or election advertising mails bearing the names of electors who were not residing at their addresses. Besides, after finishing processing the VR applications or applications for change of registration particulars, the REO had sent the registration notices to the electors concerned but some of these notices were undelivered and returned to the REO. In following up on these cases, the REO found that the registration records of the relevant electors in the FR were erroneous due to the mistakes made by its staff in processing the relevant applications, therefore resulting in errors and omissions in the records. In some cases, the registered addresses of the electors were erroneously entered, causing the electors concerned to be wrongly assigned to constituencies to which their residential addresses did not belong.

13.25 Under section 32(3) of the LCO, the ERO may amend a PR or FR so as to rectify any clerical or printing error or any incorrect name, address or other personal particulars of a person who is recorded in the register of electors. Given that the discrepancies in registration particulars of the electors in the abovementioned cases were due to error in handling the relevant applications, the electors' voting rights in the 2015 DC Ordinary Election would be deprived of or compromised if the errors were not corrected. In view of the above, the

ERO corrected the registration records of the electors concerned contained in the 2015 FR by invoking the power under section 32(3) of the LCO.

13.26 Besides, after the publication of the FR, the REO received enquiries from individual electors alleging that their registered addresses were amended without their knowledge as there were impersonators who had lodged fraudulent applications for change of their registered addresses with the REO. As a result, they were assigned to an incorrect constituency. Since the applications for change of registered address were inauthentic, after seeking legal advice from the DoJ, the REO made necessary amendment of the incorrect registration particulars of the electors contained in the 2015 FR by exercising the power under section 32(3) of the LCO. In following up on these cases, the staff of the REO would first verify the identity of the electors concerned, who were then required to confirm in writing that they had neither signed nor submitted the applications concerned and that they were still residing at the addresses as originally registered. The REO subsequently referred all these cases to the law enforcement agencies for criminal investigation.

13.27 During the period between the publication of the 2015 FR and the polling day, the ERO made corrections to the registration particulars of 170 electors² involving 185 constituencies in accordance with the above electoral legislation. Among these electors, four should originally belong to the Wah Fu North Constituency of the Southern District.

² 141 cases were due to errors in handling of the applications on the part of the REO and 29 cases were related to errors in particulars resulting from suspected impersonation in reporting change of residential addresses.

13.28 For cases involving 106 electors, the REO had managed to update the relevant particulars timely before issuing the poll cards. Therefore, the electors concerned were able to receive their poll cards (together with the Introduction to Candidates) and information about the correct constituencies, polling stations and the relevant candidates in time. For the remaining cases completed by the REO close to the polling day, the REO staff informed the PROs of the respective constituencies by fax prior to the commencement of poll on the polling day to ensure that the polling staff updated the particulars in the relevant registers in a timely manner. The REO also made its best efforts to contact the electors concerned by telephone to remind them of the correct constituencies and the relevant information of their polling stations.

13.29 As for the cases concerning the Wah Fu North Constituency of the Southern District, according to the findings of the REO, discrepancies were found in the registration records of four electors who were supposed to cast their votes in the Wah Fu North Constituency of the Southern District. The discrepancies for three electors were attributed to the REO's error in inputting the building names when processing their applications, leading to their wrong assignment to the adjacent Wah Fu South Constituency of the Southern District. The remaining elector claimed that an impersonator had filed fraudulent application for changing the registered address resulting in wrong assignment to the Ching On Constituency of the Wong Tai Sin District. Before rectifying the relevant registration particulars, the REO had cross-checked the tenancy records of the electors concerned with the HD in accordance with the established procedures to ascertain their correct residential addresses in Wah Fu

Estate which belonged to the Wah Fu North Constituency.

13.30 Under section 32(3) of the LCO, the ERO is empowered to correct erroneous entries in the PR or the FR. The ERO will exercise such powers prudently only under very exceptional situation with a view to protecting an elector's right to vote. The primary consideration is that whether it will have the effect of depriving of or undermining an elector's right to vote and consequently affecting the integrity of the election if any entry is found to be erroneous but no correction has been made in a timely manner. Therefore, it is the responsibility of the REO to rectify any erroneous registration records by amending the FR in accordance with the relevant electoral legislation. As an established practice, if registered particulars are found to be inaccurate and such inaccuracy is due to errors in processing the application on the part of the REO, the ERO will exercise his power discreetly to amend the voter register so as to ensure that eligible electors' voting rights will not be unfairly deprived of or undermined.

13.31 **Recommendation:** After discovering the discrepancies in the registration particulars of the electors, the REO had already taken appropriate remedial actions to rectify the relevant records. The EAC understands that the ERO has acted according to the actual circumstances and exercised his power appropriately under the relevant electoral legislation in rectifying the erroneous information in the voter registers in order to safeguard the voting rights of the electors concerned. If the errors were not corrected timely, the voting rights of electors would be wrongfully deprived of or compromised causing unfairness. The EAC considers that the ERO has given due consideration to

the relevant factors in exercising his power. The rectification is reasonable and made according to valid legal grounds. In the long run, the EAC considers that it is necessary to conduct a review on whether it is appropriate to formulate a set of more comprehensive and transparent procedures on the amendment of the FR to rectify erroneous registration particulars by the REO so that the voting rights of the eligible electors will be fully safeguarded.

13.32 The EAC is of the view that the incident reflects the inadequacies in the REO's handling of VR applications and its compilation of the FR which have to be improved. The REO should review the existing data entry work in the processing of applications and introduce improvement measures, such as strengthening staff training and improving the accuracy of data entry by enhancing the verification process. The REO should also enhance its cross-checking of address information with other government departments to ensure the correctness of the information. In addition, the REO should further promote the OVIES which has been launched since 2014 so that electors can notify the REO in time for correction of any discrepancies found during their inspection of their registration particulars.

(I) Facilitating Measures for Electors with Mobility Difficulties and Special Needs to Vote

13.33 The REO has all along been making every effort to identify venues which are accessible to electors with mobility difficulties for use as polling stations. In the 2015 DC Ordinary Election, the REO set up 495 ordinary polling stations of which 466 (94%) were accessible to electors with mobility

difficulties. The percentage reached an all-time high.

13.34 Owing to the lack of suitable venues in some constituencies, the REO was unable to identify venues suitable for use as polling stations for electors with mobility difficulties. Nevertheless, the REO would inform and remind electors with mobility difficulties or those using wheelchair, through the location maps of polling stations sent out with the poll cards to electors and various promotion channels, that if they found it difficult to access the allocated polling station, they could apply to the REO at least five days before the polling day for re-allocation to a special polling station set up in an accessible venue. In addition, where circumstances permitted, the REO would set up temporary ramps at the entrance of the polling stations to facilitate electors with mobility difficulties. The telephone number of the polling station was also posted near the ramp leading to the polling station so that people in need could contact the polling staff for assistance.

13.35 Apart from providing accessible polling stations to facilitate electors with mobility difficulties, the REO also implemented a number of new measures, including the launching of a dedicated telephone hotline for electors with visual impairment through which operators would read out to them the information on the Introduction to Candidates and provide them with other electoral information, appealing to electors with visual impairment to provide their email addresses so that the REO could send electoral information to them through email for reading with computers and supporting devices, and allowing electors with visual impairment to bring along their guide dogs into the polling stations, etc. Sign language interpretation was included in all APIs broadcast

on television to assist electors with hearing impairment to understand the information on the election and voting. The REO also strengthened its training for polling staff and briefed them on the proper ways to assist electors with special needs.

13.36 To facilitate ethnic minority electors to vote, the REO provided information on this election in seven ethnic minority languages (i.e. Bahasa Indonesia, Nepali, Thai, Hindi, Tagalog, Urdu and Punjabi) in the dedicated website for the 2015 DC Ordinary Election and at the polling stations.

13.37 The REO had been in close contact with the Equal Opportunities Commission (“EOC”) to consult its views with respect to the above facilitating measures. In response to the views of the EOC, more extensive publicity was launched to inform electors with special needs of the relevant measures in the conduct of the 2015 DC Ordinary Election.

13.38 **Recommendation:** The EAC appreciates the efforts made by the REO in implementing further facilitating measures to assist electors with mobility difficulties and special needs to vote. The REO should continue to work closely with the EOC with a view to identifying more accessible venues for use as polling stations for electors with mobility difficulties in future elections and implementing further measures to facilitate electors with mobility difficulties and special needs to vote.

(J) Marked Ballot Paper Found Left on a Paperboard to which the Chop Bearing a “✓” was Attached

13.39 According to the normal voting procedures, polling staff at the ballot paper issuing desk will, after verifying the elector’s identity document, issue to him/her a ballot paper and a white paperboard to which a chop with a “✓” is attached. Staff at the ballot paper issuing desk will put the ballot paper inside the transparent plastic pocket of the white paperboard to facilitate an elector to bring the ballot paper to the voting compartment. After the elector marks his/her choice on the ballot paper in the voting compartment, he/she should put the ballot paper into the ballot box and return the paperboard to the polling staff standing next to the ballot box. The voting procedures are then completed.

13.40 In the afternoon of the polling day, when staff at the ballot paper issuing desk in the polling station at STFA Tam Pak Yu College (Code: L0501) in Tuen Mun was about to issue a ballot paper and a paperboard to which a chop with a “✓” sign was attached, it was found that there was a marked ballot paper inside the transparent plastic pocket of that paperboard. An election agent of a candidate and a polling agent of another candidate were also aware of the incident. The staff at the ballot paper issuing desk informed the APRO nearby immediately, who then passed the relevant ballot paper and reported the matter to the PRO. It was the PRO’s initial assessment that the incident might have been caused by an elector who had not put the marked ballot paper into the ballot box and had returned the paperboard together with the marked ballot paper attached to the polling staff standing next to the ballot box. As there were many electors in the polling station at the time, the staff concerned did not

notice this and returned all the collected paperboards to the staff at the ballot paper issuing desk.

13.41 The PRO subsequently explained to all the election agents and polling agents on the spot the possible cause of the incident and immediately conducted a check on all the paperboards attached with the chop bearing a “✓” upon the request of one of the election agents. After checking all the paperboards, the polling staff confirmed that none of them contained any issued ballot papers. According to section 61 of the EAC (EP) (DC) Reg, the PRO must endorse the words “未用” and “UNUSED” on any ballot paper that has been issued but has not been put into the ballot box. As such, in compliance with the above regulation, the PRO stamped the words “未用” and “UNUSED” on the ballot paper which had been issued but not put into the ballot box.

13.42 Following the incident, the PRO promptly set up stanchions next to the ballot box to facilitate the queueing of the electors and deployed additional staff to assist electors who had marked the ballot paper to queue and put the ballot paper into the ballot box. If electors were found leaving the polling station without putting the ballot paper into the ballot box, the polling staff would stop them and report to the PRO immediately. The election agents and polling agents on the spot were satisfied with the arrangements and no similar incidents occurred afterwards.

13.43 **Recommendation:** The EAC considers that the incident was an isolated incident which did not affect the integrity of the election. Electors should put the marked ballot paper into the ballot box. They should neither

remove it from the polling station nor leave it behind in the polling station. However, due to the large number of electors coming in and out of the polling station during busy hours, it was difficult for polling staff to monitor the situation. After the incident, the PRO had promptly taken appropriate measures to prevent its recurrence. Moreover, the EAC understands that putting the issued ballot paper inside the transparent plastic pocket of the white paperboard can prevent elector from dropping his/her ballot paper by mistake while on the way to the voting compartment. Therefore, the EAC considers that the arrangement is appropriate and the design of paperboard and the transparent plastic pocket was not the direct cause of the incident. The REO should step up its training for polling staff in future, especially those manning the ballot box and the ballot paper issuing desk, to remind them that they must be vigilant in ensuring that every elector has put the marked ballot paper into the ballot box before leaving the polling station, and they should also carefully check the paperboards returned by electors to make sure that there is no marked ballot paper attached.

(K) Ballot Paper Wrongly Issued by Polling Staff

13.44 On the polling day, a member of the public went to the polling station at Tsung Tsin Mission of Hong Kong Kau Yan Church and Kau Yan School (Code: A1401) in Sai Ying Pun to cast her vote. However, staff at the ballot paper issuing desk could not find the particulars of the elector concerned in the poll register of the polling station. The elector was then guided to the special counter, at which a PO phoned the REO's enquiry hotline to enquire about the VR record of the elector. The PO was informed through the

telephone conversation that the person was a registered elector and the code of his/her allocated polling station was K1401, which was in Luk Yeung Constituency of Tsuen Wan. Due to miscommunication, the PO mistook the polling station K1401 for polling station A1401 and relayed the wrong code number to the DPRO. The DPRO, with PRO's approval, subsequently issued a ballot paper to the elector in accordance with the relevant procedures. The elector left the polling station after casting a vote.

13.45 Later, the DPRO requested the PO concerned to call the REO's enquiry hotline again to verify the VR record of the elector for the purpose of filling in the Log Sheet of Significant Events Record. It was at this point that the aforementioned mistake was discovered. The PO concerned admitted to having made the mistake out of carelessness. The PRO informed the CCC immediately after the mistake was brought to his attention, and, as instructed, notified all candidates of the constituency before the commencement of counting procedures. No complaints were lodged by the candidates concerned after the incident was made known to them.

13.46 **Recommendation:** The poll register compiled by the REO for polling stations should normally be free of errors, and corrections or updates are only required in extremely rare cases. Therefore, staff of the polling station should be more vigilant when handling cases of a similar nature. The above incident was an unfortunate mishap caused by the miscommunication between the PO and the staff of the enquiry hotline when ascertaining the information of the polling station for the elector concerned. The EAC considers that the REO should step up its training for staff of the polling station

and the enquiry hotline. In particular, those on duty at the special counter should be reminded of the importance of verifying the particulars of electors carefully when they make enquiry about VR records with the REO's enquiry hotline. As for the enquiry hotline staff, they should also provide the VR records in detail so as to avoid any mistakes. With regard to this case, the polling staff and the enquiry hotline staff should verify and repeat to each other the information in full, including the code and name of the polling station and the constituency to which he/she belongs when ascertaining the allocated polling station. The REO should give clear instructions to the polling staff and step up their training in future elections.

(L) Unduly Long Time Taken in Counting of Vote

13.47 It took some six hours for the polling station at PLK Chong Kee Ting Primary School (Code: R3101) located in Ma On Shan in Yiu On Constituency of Sha Tin to finish the counting of votes. There were two candidates contesting in the Constituency and the electoral size (about 13 000 voters) served by this polling station was the largest in this DC Ordinary Election.

13.48 According to section 58 of the EAC (EP) (DC) Reg, an elector must use the chop bearing a “✓” sign provided by the polling station to affix a “✓” in the circle opposite the name of the candidate of his/her choice on the ballot paper to indicate his/her choice of candidate. Counting commenced at about 11:30 pm at the aforementioned polling station. The counting staff first sorted the ballot papers with reference to the candidate for which the vote has been recorded. When the process of sorting of the ballot papers was nearing

completion, one of the candidates questioned that the “✓” sign in some of the ballot papers was much thicker and did not appear to be marked with the chops provided by the polling station. The PRO explained to the candidate concerned that the thicker “✓” was the result of excessive force used by elector in affixing the chop on the ballot papers, causing the “✓” sign getting blurred. However, the candidate concerned did not accept the PRO’s explanation and requested that the ballot papers with the thicker “✓” be treated as questionable ballot papers.

13.49 The PRO then called the ARO (Legal) for legal advice and was informed that the PRO was empowered to make the final decision on whether the ballot papers should be treated as questionable ballot papers. Having considered that the candidate concerned had question about the thicker “✓” in the ballot papers, the PRO agreed to display the sorted ballot papers one by one to the two candidates and their agents. Eventually, the PRO put aside several hundreds of the ballot papers belonging to the two candidates and with a thicker “✓” marked in the circles opposite the names of the candidates, pending determination later so as to allay their concerns.

13.50 The counting of votes could not be completed by the early hours of the next day. Noting the situation, the ARO (Legal) went to the polling station immediately to assist explaining the relevant legislation to the parties concerned, and reiterating that the PRO was empowered to make the final decision on whether the ballot papers should be treated as questionable ballot papers and did not have the obligation to display the sorted valid ballot papers one by one to the candidates and their agents.

13.51 With ARO (Legal)'s advice, the PRO decided that all the ballot papers with the thicker "✓", which were undoubtedly believed to have been marked by electors with the chops provided by the polling station in the circles opposite the names of candidates of their choice on the ballot paper, were valid ballot papers. The decision was explained to the candidates and their agents on the spot. The PRO continued with the counting of votes and commenced the procedures of determining the validity of the questionable ballot papers immediately following the clarification of the issue. Finally, the whole vote counting process finished at around 5:40 am.

13.52 **Recommendation:** According to section 76 of the EAC (EP) (DC) Reg, the counting staff should sort the ballot papers with reference to the candidate for which the vote has been recorded in any ballot paper, and separate and put aside the invalid and questionable ballot papers. The invalid ballot papers will not be counted while the validity of questionable ballot papers will be decided by the PRO according to the procedures stipulated under section 79 of the above regulation. The definitions of questionable and invalid ballot papers were clearly stated in the relevant regulation. The definition of invalid ballot papers as listed out under section 78 of the above regulation stipulates that a ballot paper not marked with the chop provided by the CEO to each polling station should be regarded as invalid. Candidates are not entitled to make representations against the invalid ballot papers. Moreover, according to section 76 of the regulation, only ballot papers with doubtful validity in the following four areas will be set aside as questionable ballot paper:-

- (i) which appears to have any writing or mark by which the elector can possibly be identified;
- (ii) which appears to be not marked in accordance with section 58(2)³;
- (iii) which appears to be substantially mutilated; or
- (iv) which appears to be void for uncertainty.

The PRO is empowered to determine whether a ballot paper is questionable according to the above regulation. If a ballot paper is treated as a questionable ballot paper, the PRO can decide on the validity of the questionable ballot paper in accordance with section 79 of the regulation. Candidates can make representation to the PRO concerning the questionable ballot paper during the determination process. According to section 80 of the regulation, the decision of the PRO in regard to any ballot paper shall be final. If candidates are not satisfied with the decision, they could only question the election by an election petition under section 49 of the DCO.

13.53 In this incident, the PRO concerned had, at the request of the candidates, examined the ballot papers with a thicker “✓” marked in the circles opposite the names of the candidates and considered that these ballot papers were marked with the chop provided by the polling station. The reason for the thicker “✓” could be the result of excessive force used by electors in affixing the chop on the ballot papers, causing the “✓” sign getting blurred.

³ Section 58 of the EAC (EP) (DC) Reg stipulates: (1) An elector is to mark his or her ballot paper with the chop; (2) The chop is to be affixed to give a single "✓" in the circle opposite the name of the candidate of the elector's choice on the ballot paper; (3) In this section *chop* (印章) means a chop provided under section 40(7) for the purpose of marking the ballot paper.

Under these circumstances, if the PRO had already made a decision on the ballot papers and decided that they were valid, his decision should be final in accordance with section 80 of the regulation. Candidates were not entitled to make representation against the decision and the decision of the PRO may only be questioned by an election petition.

13.54 The EAC considers that the incident is unfortunate and the PRO's performance in handling the candidate's queries about the ballot papers concerned was unsatisfactory. In any case, the incident did not affect the integrity of the electoral procedures. The REO should enhance the training on vote counting for polling staff and remind all PROs that, despite a "✓" sign may be thinner in shape, if they are satisfied that the "✓" is marked with the chop provided by the polling station and it is marked in the circle opposite the name of candidate of the choice of the elector, the ballot paper is valid and should not be handled as a questionable ballot paper. The EAC suggests that the REO should consult legal advice and include a ballot paper with a thicker "✓" in the samples of valid and invalid ballot papers for reference by PROs, candidates and their agents, so as to avoid unnecessary disputes. When placing order for new "✓" chops, the REO should also continue to set standards or specifications for aspects such as ink type, the thickness and the absorbency of ballot paper in order to control the quality of ink and enhance the efficacy and performance of the chops.

(M) Discrepancy in Voter Turnout and Actual Number of Ballot Papers Issued

13.55 At the close of the poll, the PRO of the polling station at Shek Lei Estate Indoor Activity Room (Code: S0901) discovered that the cumulative voter turnout released by the polling station was 1 000 more than the actual number of ballot papers issued.

13.56 According to the relevant operational manual, the PO at each ballot paper issuing desk is required to fill in the hourly control sheet on the number of ballot papers issued after the opening of the polling station. The PO (Statistics) will then collect the total number of ballot papers issued by each issuing desk in the past hour and the APRO (Statistics) will work out the hourly voter turnout and cumulative voter turnout of the polling station based on the aforementioned data, and fill in a control sheet. Afterwards, the DPRO responsible for statistics will fax the control sheet to the SIC and arrange for a staff to update the notice on voter turnout posted outside the polling station. These procedures must be followed until the close of the poll.

13.57 The REO's investigation found that the PO (Statistics) of the polling station concerned failed to comply with the aforementioned procedures and took it upon himself to fill in the hourly control sheet on ballot papers issued on behalf of the PO at each ballot paper issuing desk. He then worked out the voter turnout on his own and sent the control sheet to the SIC by fax after confirmation by APRO (Statistics). At the close of the poll, the PRO found that the voter turnout for the polling station for the whole day was 1 000 more

than the actual number of ballot papers issued. This was because the PO (Statistics) miscalculated a total of 900 unissued ballot papers distributed to six issuing desks mistaking them for ballot papers already issued to the electors when filling in the control sheet in five reporting intervals. Furthermore, in another reporting interval, the same PO mistook 100 unissued ballot papers from the previous interval as ballot papers issued in that interval. These errors resulted in a discrepancy of 1 000 between the voter turnout for the polling station for the whole day and the actual number of ballot papers issued. Nevertheless, the PO (Statistics) concerned did not commit similar error in the calculation of the ballot papers issued in the other nine reporting intervals.

13.58 The PRO explained the discrepancy to the two candidates present before counting of votes. A re-count was also conducted upon candidates' request. As the results of the two counts were the same, the RO announced the election results. Be that as it may, the unelected candidate was dissatisfied with the results.

13.59 **Recommendation:** The REO's investigation reveals that the occurrence of this incident was due to the repeated mistakes made by the staff of the polling station concerned when he calculated the number of ballot papers issued and filled in the control sheet. The three main reasons are summarised as follows:

- (i) The PO (Statistics) did not comply with the operational manual and took it upon himself to fill in the control sheet for the PO at each ballot paper issuing desk. This was a serious mistake and

resulted in the discrepancy between the cumulative voter turnout and the actual number of ballot papers issued for the polling station. The staff concerned had admitted the responsibility;

- (ii) The APRO (Statistics) did not act in accordance with the relevant operational manual to review and check the data on voter turnout collected by the PO (Statistics) carefully; and
- (iii) As the person-in-charge of data collection for the polling station on the polling day, the DPRO responsible for statistics did not verify the data on voter turnout collected by the PO (Statistics) and APRO (Statistics) carefully, resulting in the mistake not being discovered timely.

The EAC considers that this was a serious incident as it had unavoidably led to suspicion about the statistical data on voter turnout among the candidates and the public, and might undermine the credibility of the count. The REO had conducted detailed investigation, in particular on the reason why mistakes were only made at some reporting intervals. According to the PO (Statistics)'s explanation, the mistakes were due to his negligence in the calculation. Having been satisfied that all the information in the relevant statistical returns was verified and the mistakes did not affect the final counting result or the integrity of the electoral procedures, the EAC accepts the explanation of the PO (Statistics). The EAC has instructed the REO to further clarify the role and relevant responsibility of the staff concerned, and to take corresponding follow-up action to avoid similar incidents from happening in future.

Moreover, the EAC considers that the REO should step up the training on handling statistical returns for polling staff, to explain clearly to the polling staff how to fill in the control sheets as well as remind them to discharge their respective duties with extra care in filling in and verifying the data and to carry out mutual checks and verification among themselves to avoid miscalculation.

(N) PRO Leaving Polling Station without Confirming that Counting Results Were Faxed to SIC

13.60 After completion of the counting procedures on the polling day, the PRO of the polling station located at the Lingnan Secondary School Heng Fa Chuen (Code: C0701) released the counting results to the candidates, election agents and counting agents present at the station, and ascertained that there was no request for re-count. As stated in the relevant operational manual, the DPRO responsible for statistics should report the counting results of the station to the SIC of the REO. Upon receipt of the report, the SIC will first verify the counting results, arrange for the RO to sign and announce the election results of the respective constituency, and then notify and instruct the PRO to post a notice of the results outside the polling station. The PRO must ensure that the above steps are completed before dismissing the polling staff and arranging the delivery of election materials to the designated collection centre assigned by the RO.

13.61 However, the DPRO responsible for statistics of the above polling station was mistaken that a polling staff of the station had already faxed the counting results and the relevant return to the SIC. Worse still, the PRO was

also mistaken that the polling staff responsible for statistics had already faxed the relevant documents to the SIC and, therefore, advised the polling staff to start packing the election materials and clean up the venue. Without either waiting for SIC's verification of counting results or posting the notice of results outside the polling station, the PRO decided to dismiss the polling staff, including the DPRO responsible for statistics, by batches and delivered the election materials to the designated collection centre located at the District Office together with another DPRO and an APRO. While the PRO was delivering the materials to the collection centre, he only assigned the APRO (Statistics) and another APRO to stay behind to wait for SIC's reply. However, these two APROs left the polling station without getting a reply from the SIC. Since the SIC had neither received the counting results of the above station nor could make contact with the PRO, DPRO or APRO (Statistics), the REO had to send its staff to the designated collection centre to look into the matter. Eventually, staff of the District Office found the return on counting results in the collection centre and faxed it to the SIC which verified the counting results as correct. The incident had led to a delay in the announcement of the election results.

13.62 **Recommendation:** The findings of the REO's investigation shows that the PRO and the DPRO responsible for statistics failed to comply strictly with the requirements of the operational manual and to ensure that the statistical return on the counting results has been faxed to the SIC. On the other hand, the APRO (Statistics) did not wait for the SIC's verification of the counting results in the polling station and did not post the notice of election results outside the station before leaving. The EAC considers that the incident

was serious as it would lead to public suspicion about the professionalism and capability of the electoral staff. It is obvious that there are problems with the performance of the three polling staff. The EAC has instructed the REO to further clarify the responsibilities of the staff concerned and take corresponding follow-up action to avoid similar incidents from happening in future. On the other hand, the REO should step up its training for polling staff in respect of counting steps and remind them to ensure that the relevant control sheets on counting results are faxed to the SIC. Moreover, PROs should be reminded that they must wait for the SIC's verification of results, and post the notice of the election results outside the polling station before arranging their polling staff to leave and delivery of the election materials to the designated collection centre.

(O) The Count

13.63 The EAC notes that the overall counting and verification of results for this election was completed in about 6.5 hours. However, for most of the counting stations, the counting procedures were completed and the election results were announced by ROs within 4.5 hours. The delay in the dissemination of overall counting results was partly because of a delay of reporting of the counting results to the SIC for verification in three polling stations as mentioned above (Codes: C0701, R3101 and S0901) for various reasons. In addition, the voter turnout of the 2015 DC Ordinary Election was 1 467 229, which has an increase of more than 260 000 when compared with that in the 2011 DC Ordinary Election (voter turnout in the 2011 DC Ordinary Election was 1 202 544) and there were requests for re-counts by candidates at

18 polling stations. Therefore, the time used to complete the counting of votes in this election was comparatively longer than the 4-hour taken in 2011.

13.64 **Recommendation:** The time taken for the counting and verification of results in this election was indeed longer than expected. There was a delay in the counting work at individual counting stations for various reasons. Nevertheless, the counting procedures were completed within 4.5 hours at most of the counting stations which was slightly longer than the 4-hour taken in 2011. This is obviously due to the substantial increase in voter turnout. The EAC considers that the REO should continue to explore practical measures to shorten the time for both the counting of votes and verification of results so that the election results could be announced as soon as possible.

PART SIX

CONCLUSION

CHAPTER 14

ACKNOWLEDGEMENT

14.1 The successful conclusion of the 2015 DC Ordinary Election was attributable to the dedication and concerted efforts of all parties involved.

14.2 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

Correctional Services Department

Customs and Excise Department

Constitutional and Mainland Affairs Bureau

Department of Justice

Drainage Services Department

Efficiency Unit of the Chief Secretary for Administration's Office

Electrical and Mechanical Services Department

Food and Environmental Hygiene Department

Government Logistics Department

Highways Department

Home Affairs Bureau

Home Affairs Department

Hong Kong Observatory

Hong Kong Police Force

Hongkong Post

Hong Kong Housing Authority

Housing Department

Immigration Department

Independent Commission Against Corruption

Information Services Department

Land Registry

Lands Department

Legal Aid Department

Leisure and Cultural Services Department

Marine Department

Office of the Government Chief Information Officer

Official Languages Division of the Civil Service Bureau

Planning Department

Radio Television Hong Kong

Social Welfare Department

Transport Department

14.3 The EAC is grateful to the REO for its dedicated efforts and contribution at all stages throughout the 2015 DC Ordinary Election.

14.4 The EAC is deeply thankful to the government officers serving as ROs, AROs, PROs, DPROs, APROs and polling and counting staff, and the legal practitioners serving on the NACs, for their contributions to this election.

14.5 The EAC would also like to express its appreciation to CSD, Police and

other LEAs for their assistance to the REO in making the necessary arrangements for registered electors who were imprisoned, remanded and detained on the polling day to vote.

14.6 Moreover, the EAC is also grateful to members of the media for enhancing the transparency of the election through their extensive coverage.

14.7 Last but not the least, the EAC would like to thank each and every elector who turned out to cast their votes, and those who provided support and assistance throughout the election to ensure that the electoral legislation and the Guidelines were complied with.

CHAPTER 15

LOOKING FORWARD

15.1 The 2015 DC Ordinary Election was conducted smoothly on 22 November 2015 in an open, honest and fair manner. The EAC was satisfied with the overall electoral arrangements.

15.2 At the time of finalising this report, the EAC is engaged in the preparation of the 2016 LegCo New Territories East Geographical Constituency By-election to be held on 28 February 2016 and the proposed guidelines on election-related activities for the 2016 LegCo General Election for public consultation. As for VR, the Government is conducting a public consultation on a number of improvement measures for enhancing the VR system. The EAC will work with the Government on the improvement measures to be adopted to safeguard an honest and fair VR system.

15.3 The EAC remains committed to fulfilling its mission of safeguarding the integrity of the public elections in Hong Kong. It will continue with its efforts in keeping a vigilant watch over various elections to ensure that openness, fairness and honesty are upheld in the conduct of every election. The EAC welcomes positive and constructive comments to bring about improvements to future elections.

15.4 The EAC recommends that this report be made public, at a time the CE thinks appropriate, so that the public will be kept posted as to how the EAC conducted and supervised the 2015 DC Ordinary Election.

