

ELECTORAL AFFAIRS COMMISSION

**REPORT ON THE
DISTRICT COUNCILS BY-ELECTION
HELD ON 23 JULY 2000**

Submitted to

**the Honourable Tung Chee Hwa
the Chief Executive of the Hong Kong Special Administrative Region
of the People's Republic of China**

23 October 2000

1. Background

- 1.1 In the 1999 District Councils Election, one of the candidates of the Fung Tsui constituency in the North District, Ms LIN Shui-lin, was ruled invalidly nominated by the Returning Officer (“RO”) of that constituency on the ground that she had not met the three-year residency requirement as stipulated in the District Councils Ordinance.
- 1.2 Ms Lin challenged the RO’s decision and lodged an election petition with the Court of First Instance of the High Court on 20 January 2000. She alleged that the RO was wrong in deciding that she had not been ordinarily residing in Hong Kong during the three years immediately preceding the nomination.
- 1.3 The Court of First Instance ruled on 4 May 2000 that the RO’s decision was wrong and Ms Lin’s nomination should have been valid. Hence Mr LIU Chiu-wa, the winner of the District Councils Election for the Fung Tsui Constituency held on 28 November 1999, was declared not duly elected. Consequently a by-election was arranged on 23 July 2000 in this constituency to return a candidate to fill the vacancy thus arising.
- 1.4 Section 8 of the Electoral Affairs Commission Ordinance (“the EAC Ordinance” or “the Ordinance”) provides that within three months of the conclusion of an election, the Electoral Affairs Commission (“EAC” or “the Commission”) shall make a report to the Chief Executive on matters relating to that election in respect of which the Commission has any function under the EAC Ordinance or any other ordinance. It also provides that the report shall include a report on any complaint made to the Commission in connection with the election. The by-election having taken place on 23 July and concluded on 24 July 2000, this report is due by 23 October 2000 in conformity with the statutory provision.

2. Preparation

- 2.1 Immediately following the court ruling, the Registration and Electoral Office (“REO”) started to look for suitable venues in the Fung Tsui Constituency to serve as polling stations and counting station. Two places were identified and designated as polling stations for an electorate of 6,405 (as compared with 5,485 in 1999) : the Tai Po District Junior Police Call Sheung Shui Clubhouse at the Old Sheung Shui Police Station, and the Bilok Anglo-Chinese Kindergarten at Tsui Lai Garden in Sheung Shui. The latter also served as a special polling station for disabled electors. The counting station was set up at the Tung Wah Group Hospitals Hong Kong & Kowloon Electrical Appliances Merchants Association Ltd School at Area 7, Shek Wu Hui.
- 2.2 The nomination period for the by-election commenced on 31 May and ended on 13 June 2000. Two nominations were received by the RO (the District Officer (North), who was also the RO for that constituency in the 1999 District Councils Election), from Messrs LIU Chiu-wa and HAU Hing-wing.
- 2.3 Press releases launched by the Media Relations Section of the REO helped to draw the attention of the electors of the constituency and the general public to the by-election and to keep them abreast of the development and arrangements relating to the preparation for the by-election. Publicity for the by-election, including the issue of a letter to the electors of the Fung Tsui Constituency appealing to them to vote on the polling day and a briefing session for the candidates, was arranged locally by the RO.

3. The Polling Day

- 3.1 Polling on 23 July 2000 started from 7:30 am and ended at 10:30 pm. Both polling stations were manned by staff of the REO. A command centre was set up at the office of the RO to oversee the

entire operation. A press centre was set up at the REO headquarters for answering press enquiries from 7:30 am till the announcement of the election result. The general enquiry hotline also operated from 7:30 am till 10:30 pm. A complaint centre was set up at REO headquarters to handle complaints received on that day.

- 3.2 Of the 6,405 electors (as compared with 5,485 in 1999) in the constituency, 2,382 (1,781 in 1999) turned up to cast their votes, representing about 37.52% (34.11% in 1999) of the electorate.
- 3.3 The counting station was primarily manned by REO staff. The counting supervisor was an officer from the District Office (North). Counting started sometime before 11 pm and finished at about 12:30 am in the following day (the 24th) when the RO announced the result of the by-election: Mr LIU Chiu-wa obtained 1,470 votes and Mr HAU Hing-wing obtained 912 votes. Mr Liu was elected. A total of 21 ballot papers were determined by the RO to be invalid and were rejected.
- 3.4 The EAC Chairman visited the polling stations with one member, Dr Elizabeth Shing, and the counting station with another member, Mr Norman Leung Nai-pang. They were generally satisfied with the arrangements.

4. Complaints

- 4.1 For the by-election a total of 38 complaint cases were received: 2 by the Complaints Committee, 29 by the RO, and 7 by the presiding officers of the two polling stations on the polling day. A breakdown of these cases by nature is at the **Appendix**.
- 4.2 The majority of the complaints concerned with electoral advertisements, illegal canvassing activities in the no-canvassing zone/no-staying zone, and electioneering activities on private premises. There was one case of particular interest: a group of

elderly men and women from an elderly centre were transported by the agents of one of the candidates on the polling day to one of the polling stations to cast their votes. On the back of the hand of each of these persons there was a label showing an Arabic numeral, which happened to be the same as one of the candidate numbers. The complainant alleged that they were under undue influence to vote and the case was referred to ICAC for investigation.

5. Conclusion

- 5.1 Generally speaking, the conduct of the by-election was observed to be smooth and no serious problem was encountered.
- 5.2 The Commission has always kept a watchful eye on the need to ensure that all elections are conducted in an open, fair and honest manner, be they ordinary elections or by-elections. The Commission is satisfied that this principle has been upheld in the by-election for the Fung Tsui District Council Constituency.
- 5.3 The Commission wishes to acknowledge its gratitude towards the following parties who have rendered invaluable assistance in the smooth conduct of the by-election: the Constitutional Affairs Bureau, Home Affairs Bureau, Independent Commission Against Corruption, Civil Aid Services, Department of Justice, Home Affairs Department, Hong Kong Police Force, Information Services Department, Official Languages Agency and REO.

**Breakdown of Complaint Cases received
in Respect of the 2000 District Councils
Fung Tsui Constituency By-election**

Nature		No. of cases received by			
		CC*	Returning Officer	ing Officers	Total
1.	Election advertisements	0	6	1	7
2.	Electioneering activities on private premises	1	7	0	8
3.	Entitlement to vote	0	1	0	1
4.	Corruption and illegal practices	1	3	0	4
5.	Disturbances to electors caused by use of loudspeakers/telephone canvassing/shouting electors' names in common areas of the premises	0	2	3	5
6.	Canvassing activities in no-canvassing zones/no-staying zones	0	5	3	8
7.	Others	0	5	0	5
Total		2	29	7	38
Action completed		2	29	7	38
Outstanding		0	0	0	0

* Complaints Committee