

PART ONE

PROLOGUE

CHAPTER 1

OVERVIEW

Section 1 – Introduction

1.1 A general election was held on 7 September 2008 to return 60 Members of the Legislative Council (“LegCo”) for the fourth term of four years commencing on 1 October 2008, upon the prorogation of the third term LegCo on 19 July 2008.

Number of Members Returned

1.2 The fourth term LegCo is composed of 60 Members, amongst whom 30 were returned by Functional Constituencies (“FCs”) and the other 30 were returned by Geographical Constituencies (“GCs”) as in the last general election held in 2004. The number of members to be returned for the five GCs and the 28 FCs respectively are listed in **Appendix I**.

This Election

1.3 The 2008 LegCo Election was keenly contested with 142 candidates nominated for 30 GC seats and 59 candidates nominated for 30 FC seats. For GCs, contest was most keen in the Kowloon West (“KW”) GC where 13 lists totalling 30 candidates contested for five seats. As for FCs, contest was most keen in the Accountancy FC and the Architectural, Surveying and Planning FC where five candidates contested for one seat in each of these two FCs.

1.4 A total of 1,524,249 GC electors and 126,819 FC electors cast their votes on the polling day, representing 45.20% and 59.76% of the total electorate of 3,372,007 and 212,227 for the contested constituencies respectively. The turnout rates were lower than those in the 2004 LegCo Election (55.64% and 70.10% for GCs and FCs respectively), but higher than those in the 2000 LegCo Election (43.57% and 56.50% for GCs and FCs respectively).

Section 2 – Report to the Chief Executive

1.5 The Electoral Affairs Commission (“EAC”) is required under section 8(1) of the Electoral Affairs Commission Ordinance, Cap 541 (“EACO”) to submit a report on an election to the Chief Executive (“CE”) within three months after the polling day of the election.

1.6 This report aims to give a comprehensive picture of how the EAC conducted and supervised the election at its various stages. It gives a detailed account of the preparatory work and the implementation of the electoral arrangements, reviews the effectiveness of these arrangements, explains how complaints were handled, and puts forth the EAC’s recommendations for improving the arrangements for future elections in the light of the experience gained from this election.

PART TWO

BEFORE THE POLLING DAY

CHAPTER 2

DELINEATION OF GEOGRAPHICAL CONSTITUENCIES

Section 1 – The Legal Requirements

2.1 An important task that the EAC had to undertake during the preparation stage of the election was the delineation of constituencies for GCs. According to section 4(a) of the EACO, the EAC has to make recommendations on the boundaries and names of GCs for a LegCo election. Under section 18 of the EACO, the EAC is required to submit to the CE a report on its recommendations not more than 36 months after the preceding general election was held. As the preceding general election was held on 12 September 2004, the EAC was required to submit the report to the CE by 11 September 2007.

2.2 The demarcation exercise commenced in May 2007, and was based on the population forecast prepared by the inter-departmental Ad Hoc Subgroup (“AHSG”) formed under the Working Group on Population Distribution Projections chaired by the Planning Department. In order to achieve a high level of accuracy, it is necessary to project the population distribution figures at a date as close to the election date as practicable. The AHSG was requested to provide a population forecast for 30 June 2008 for the 2008 LegCo Election to be held in September 2008.

2.3 The number of Members of the LegCo to be returned by GCs in the 2008 LegCo Election is 30, as in the 2004 LegCo Election. According to sections 18 and

19 of the Legislative Council Ordinance, Cap 542 (“LCO”),

- (a) there are to be five GCs;
- (b) 30 Members are to be returned; and
- (c) the number of Members to be returned for each GC is to be a number not less than four nor greater than eight.

2.4 Preliminary delineation proposals were then drawn up based on the stipulated number of GCs and Members to be returned by each of them, as well as the statutory criteria stipulated in section 20 of the EACO and the working principles adopted by the EAC. Reference had also been made to comments expressed by District Officers (“DOs”) of the Home Affairs Department (“HAD”) in drawing up the proposals.

Section 2 – Preliminary Proposals and Public Consultation

2.5 After considering a number of options, the EAC decided to adopt the boundaries and names of the existing GCs, and the number of Members to be returned by each GC was determined as follows:

<u>GC</u>	<u>No. of Member to be Returned</u>
Hong Kong Island	6
Kowloon West	5
Kowloon East	4

New Territories West	8
New Territories East	7
Total:	<u>30</u>

2.6 The above preliminary proposals, with maps, were made available for public consultation from 5 July 2007 to 3 August 2007 in accordance with section 19 of the EACO. A public forum was held on 26 July 2007 to receive oral representations on the proposals from the public.

Section 3 – The Final Recommendations

2.7 During the public consultation period, the majority of the representations received proposed to maintain the former number of seats for KW and Kowloon East (“KE”) (four and five seats respectively). The major justification put forward was that the difference in the forecast population between the two GCs was small (1,030,000 for KW – 1,018,700 for KE = 11,300). The EAC was of the view that although the projected population difference between the two GCs was 1.11%, it would be unfair to KW if it was allocated fewer seats than KE despite a larger population. Having carefully considered all the public representations, the EAC decided to adopt its provisional recommendations as final recommendations. In accordance with section 18 of the EACO, the EAC submitted a report on its recommendations for delineation of the GCs and the names proposed for each constituency to the CE on 11 September 2007.

2.8 The report contained a detailed account of the EAC’s work in the demarcation exercise, representations received during the public consultation

period and EAC's deliberations on them. The recommendations in the report were accepted and approved by the CE in Council on 16 October 2007. The CE in Council made the Declaration of Geographical Constituencies (Legislative Council) Order 2007 on 16 October 2007 which was then tabled in LegCo for negative vetting on 24 October 2007. The finalised set of maps with the delineations was published by the EAC in March 2008 for general information of the public.

CHAPTER 3

REGISTRATION OF ELECTORS

Section 1 – Qualification for Registration

3.1 Only a registered elector is eligible to vote at a LegCo election. The qualifications for registration as electors for the GCs and FCs are provided in the LCO.

Geographical Constituencies

3.2 An individual is eligible to be registered as a GC elector if he:

- (a) is aged 18 or above as at 25 July 2008;
- (b) is a permanent resident of Hong Kong;
- (c) ordinarily resides in Hong Kong, with his residential address stated in the application for registration being his only or principal residence in Hong Kong;
- (d) holds a valid identity document or applies for a new/replacement identity document; and
- (e) is not disqualified from being registered as an elector.

Functional Constituencies

3.3 The LCO provides for the qualification for registration as electors of the 28 FCs. Electorates of FCs are generally composed of members of professional or trade organisations, representative bodies of the relevant sectors, or holders of licences/franchises.

3.4 The FC electorate consists of both natural persons and corporate bodies. A requirement for a natural person to be an FC elector is that the person must be a GC elector. Among the 28 FCs, 18 of them consist of corporate electors. A corporate elector is required to cast its vote through an authorised representative (“AR”) who is a natural person and a GC elector appointed by the corporate elector to vote on its behalf.

3.5 The appointment or replacement of the AR must be registered with the Electoral Registration Officer (“ERO”). An FC elector cannot be an AR for the same FC, but can be an AR for another FC. An AR of a corporate elector cannot be appointed as the AR of another corporate elector at the same time. A person who is qualified to be an elector of more than one FC can only become an elector of one of the FCs of the person’s choice. If a person is eligible to register as an elector in one of the four special FCs, namely, Heung Yee Kuk, Insurance, Transport and Agriculture & Fisheries, the person can only be registered as an elector of that special FC.

Section 2 – Registration Regulations

3.6 Two sets of regulations are in place for the purpose of setting out the procedure relating to the registration of electors. The Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation, Cap 541A (“EAC (ROE) (GC) Reg”) governs the registration of GCs electors, whereas the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation, Cap 541B (“EAC (ROE) (FCSEC) Reg”) caters for the registration of FCs electors.

Section 3 – The Registration Campaign

3.7 To appeal to the eligible members of the public to register as electors and to remind those already registered to report to the Registration and Electoral Office (“REO”) on any change of their addresses should they have moved, a territory-wide registration campaign was launched from 5 April to 16 May 2008 under the coordination of the Constitutional and Mainland Affairs Bureau (“CMAB”) and with the joint efforts of the REO, HAD, Information Services Department (“ISD”) and Radio Television Hong Kong (“RTHK”).

3.8 The campaign comprised a series of publicity and promotional activities, including announcements of public interest (“APIs”) on television and radio, advertisements in major MTR stations and display of posters. Celebrities were appointed as Ambassadors to provide publicity focus and attraction for the

campaign. Concerts and shows were held in various shopping malls. Registration counters at major Registration of Persons Offices were set up to facilitate eligible persons, who turned up at these offices to apply for or to collect their identity cards, to register as electors at the same time. Roving voter registration counters manned by voter registration assistants of HAD were set up at locations with high pedestrian flow around the city. REO also set up counters at higher education institutions to encourage eligible students to register. Appeal letters were issued to the residents who had moved to the newly developed residential estates to remind them to update their addresses. Efforts were also made to familiarise the public with the registration deadline (i.e. 16 May 2008) and the range of registration channels.

3.9 Of the 320,293 registration forms received as at the statutory cut-off date on 16 May 2008, 211,837 (66.14%) were received during the six-week campaign period. The total number of electors recorded in the 2008 final register (“FR”) for GCs and FCs was 3,372,007 and 229,861 respectively, among which 166,318 (4.93%) and 23,098 (10.05%) were newly registered electors.

Section 4 – The Registers

3.10 The REO published the Provisional Register (“PR”) for GCs and FCs on 16 June 2008. Information in the PR included the names and principal residential addresses of those whose names were included in the previous FR, updated by the REO on the basis of information reported by electors or obtained from other sources, and similar particulars of eligible applicants who had applied for registration on or before 16 May 2008.

3.11 An omissions list was published in conjunction with the publication of the PR in 2008. This list contained the particulars of the persons who were formerly registered in the 2007 FR but were not included in the 2008 PR and proposed to be omitted from the 2008 FR on the grounds that the ERO had reasons to believe that these persons had been disqualified or had ceased to be eligible to be registered, e.g. they had passed away or they had changed their principal residential address but the new address was not known to the ERO.

3.12 Both the PR and the omissions list were made available for public inspection at the REO and all District Offices (that section of the register relevant to the district) between 16 and 30 June 2008. Members of the public might lodge with the ERO objections to any entries in the PR during the period. People whose applications for registration had been rejected or whose names had been put on the omissions list might also lodge claims with regard to such cases.

3.13 By the end of the public inspection period, the ERO did not receive any objection or claim for both GCs and FCs.

3.14 The FR was published on 18 July 2008. It listed the particulars of a total of 3,372,007 electors. A breakdown by GCs and FCs is at **Appendices II to IV**.

CHAPTER 4

LEGISLATION GOVERNING THE ELECTION

Section 1 – Ordinances and Subsidiary Legislation

4.1 The supervision and conduct of the 2008 LegCo Election was governed by the following ordinances:

- (a) the EACO which empowers the EAC to perform its various functions in supervising the conduct of the election;
- (b) the LCO which provides the legal basis for conducting the election; and
- (c) the Elections (Corrupt and Illegal Conduct) Ordinance, Cap 554 (“ECICO”) which prohibits election-related corrupt and illegal activities and is administered by the Independent Commission Against Corruption (“ICAC”).

4.2 These ordinances are supplemented by nine pieces of subsidiary legislation which provide for the detailed procedures for the conduct of the election. They are –

- (a) the EAC (Electoral Procedure) (LegCo) Regulation, Cap 541D (“EAC (EP) (LC) Reg”);

- (b) the EAC (Nominations Advisory Committees (LegCo)) Regulation, Cap 541C (“EAC (NAC) (LC) Reg”);
- (c) the EAC (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation, Cap 541A (“EAC (ROE) (GC) Reg”);
- (d) the EAC (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation, Cap 541B (“EAC (ROE) (FCSEC) Reg”);
- (e) the LegCo (Subscribers and Election Deposit for Nomination) Regulation, Cap 542C;
- (f) the Legislative Council (Election Petition) Rules, Cap 542F;
- (g) the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation, Cap 541M (“PCBP (LC & DC) Reg”);
- (h) the EAC (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation, Cap 541N (“EAC (FA) (APP) Reg”); and

- (i) Maximum Amount of Election Expenses (Legislative Council Election) Regulation, Cap 554D (“EE (LC) Reg”).

Section 2 – EAC (Electoral Procedure) (LegCo) Regulation

4.3 To improve the electoral arrangements, which is a continuous commitment of the EAC for every election, the EAC revised the EAC (EP) (LC) Reg and the electoral guidelines taking into account the operational experience gained from past elections as well as suggestions and the nature of complaints received from the public and other parties concerned.

4.4 The EAC (Electoral Procedure) (LegCo) (Amendment) Regulation 2008 was made to –

- (a) tally the electoral procedures, where appropriate, with those for the Election Committee Subsector, CE and District Council (“DC”) elections; and
- (b) make other necessary amendments to streamline the electoral arrangements.

4.5 The major amendments to the EAC (EP) (LC) Reg included:

- (a) allowing the Returning Officers (“ROs”) to perform certain acts concerning No Canvassing Zone (“NCZ”) and No Staying Zone (“NSZ”) through the Presiding Officers (“PROs”);

- (b) clarifying that the Chief Electoral Officer (“CEO”) may revoke the appointment of polling or counting officers with reasonable cause;
- (c) providing that polling agents, in addition to the candidates, their election agents and counting agents, may also stay in the polling station while it is converted into a counting station at the close of the poll;
- (d) adding a new section to provide that when it appears that a counting station will no longer be available or suitable for the counting of votes cast at a GC polling station to take place or continue to take place, the EAC may direct that the counting is to take place or continue to take place at another counting station. The PRO must arrange the relevant election materials to be transferred to that new counting station for the counting to take place or continue to take place;
- (e) clarifying that where the RO has terminated the proceedings for the election upon proof of the death or the disqualification of a candidate given to him on the date of the election and before the close of polling, in directing that the poll be abandoned, such proof would not need to be given to the RO again;
- (f) adding a new section to the effect that the election return required to be lodged under the ECICO must be in the form to be specified by the EAC;
and

- (g) clarifying that a candidate must deposit with the RO such permission or authorisation before display of an election advertisement (“EA”) in the form of a bill or poster, but not the distribution or otherwise use of an EA, as the latter is not regulated under section 104A (1) of the Public Health and Municipal Services Ordinance, Cap 132.

4.6 The Amendment Regulation was gazetted on 20 March 2008. It was tabled before the LegCo on 9 April 2008 and came into operation on 1 June 2008. The amendments were also reflected, where appropriate, in the Guidelines on Election-related Activities in respect of the Legislative Council Election (“the Guidelines”) issued in July 2008.

Section 3 – Subsidiary Legislation made by the Administration

4.7 To increase the specified rate of financial assistance given to candidates of LegCo elections from \$10 per vote to \$11 per vote, the Legislative Council Ordinance (Amendment of Schedule 5) Order 2008 (“Order 2008”) was made by the CE in Council under section 83A of the LCO. It was published in the Gazette on 16 May 2008 and tabled before the LegCo on 21 May 2008. It came into operation on 18 July 2008.

4.8 To increase the maximum amount of election expenses that might be incurred by or on behalf of a candidate/all the candidates on a list for a LegCo election by 5%, the EE (LC) Reg was made. As per the Order 2008, the Regulation was published in the Gazette on 16 May 2008 and tabled before the LegCo on 21 May 2008. It also came into operation on 18 July 2008.

CHAPTER 5

THE GUIDELINES

Section 1 – The Preparatory Work

5.1 The EAC is empowered under section 6(1)(a) of the EACO to issue guidelines to facilitate the conduct or supervision of an election. The purpose of producing the guidelines is to ensure that all public elections are conducted in an open, honest and fair manner. The guidelines provide a code of conduct based on the principle of fairness and equality for conducting election-related activities. They also give directions in layman's language on how to comply with the relevant electoral legislation and identify common pitfalls so that candidates can avoid breaching the law and regulations out of inadvertence.

5.2 The EAC has at all times made its best endeavours in refining the electoral arrangements for elections. Before each general election, the EAC will revise the electoral guidelines. The revision is done on the basis of the guidelines used for previous elections, taking into account the operational experience of each election, as well as suggestions and the nature of complaints received from the public and other parties concerned. Before the promulgation of the guidelines, a 30-day period of consultation will be conducted during which representations are invited from the public and all parties concerned on the proposed guidelines. A public forum will also be held at which the EAC will receive oral representations from 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.

5.3 The REO started revising the LegCo Election Guidelines in December 2007 for the 2008 LegCo Election by modelling on the 2004 LegCo Election Guidelines, and making reference to the Guidelines issued for the 2007 DC Election. It also took into account the operational experience in the recent DC by-elections and the Village Representatives elections, as well as the nature of complaints and suggestions received in these elections with a view to introducing improvements on the electoral arrangements for the election.

Section 2 – The Proposed Guidelines

5.4 The major changes proposed in the draft Guidelines, as compared with the Guidelines for the 2004 LegCo Election, included the following:

(I) Changes caused by amendments to electoral legislation or introduction of new legislation

- (a) clarifying that the candidate, his election agent or a counting agent may inspect invalid ballot papers but are not entitled to make representations to the PRO/RO concerning those papers;
- (b) clarifying that besides the candidates, their election agents, polling and counting agents, if present, may stay inside the polling station to observe the conversion of the venue into a counting station;

- (c) setting out that the RO may perform any act relating to delineation and variation of the NCZ and the NSZ which he is required or authorised to perform through a PRO;
- (d) adding the special arrangement for counting of votes for GCs in case the counting station is no longer available for completing the counting of votes; and
- (e) advising the candidates that the amount of election donations received by a candidate or a list of candidates will not be taken into account in calculating the amount of financial assistance payable to the candidate.

(II) Changes made in the light of operational experience and/or suggestions/ complaints received from past elections

- (a) adding a note that no illegal act should be used to cause an elector to nominate or not to nominate a person as a candidate;
- (b) drawing the attention of candidates to the consequences for making false declaration in the nomination form under the relevant law;
- (c) clarifying that a performance report whether in the format of a website or a printed document published or distributed by an incumbent candidate during or before the election period will also be regarded as an EA if it is published for the purpose of promoting or prejudicing candidates at the election;

- (d) clarifying that any EAs displayed by the candidates on Government land/property other than at designated spots are deemed to be unauthorised and will be removed, save those EAs displayed in connection with electioneering activities conducted on Government land/property with approval by the authorities concerned;
- (e) adding that the erection of buntings on railings on public pavements is prohibited ;
- (f) reminding candidates that different organisations may have their own guidelines on the conduct of electioneering activities, and it is desirable for candidates to consult them in advance and obtain permission if required;
- (g) advising candidates and their supporters of the importance of handling personal data of electors discreetly when conducting electioneering activities;
- (h) including short message service (“SMS”) under the guidelines governing electioneering calls;
- (i) adding a guidance note on safe conduct of election-related activities issued by the Commissioner of Police;

- (j) reminding candidates of the Transport Department requirements relating to the display of EAs on public light buses and carriage of standing passengers on vehicles; and
- (k) setting out additional measures to step up the control on the conduct of exit polls and enhance the transparency of the organisations or persons with approval to conduct exit polls.

5.5 In accordance with the EACO and the established practice, the EAC conducted a 30-day public consultation from 25 March until 23 April 2008. As in the past, the changes set out in paragraph 5.4 above were highlighted in a Message from the Chairman enclosed in the proposed Guidelines, explaining the consultation mechanism and to provide a more focused basis for the public to give their comments. During the consultation period, members of the public were invited to give their views on the proposed Guidelines and lodge their written representations with the EAC. The EAC held a forum in the afternoon of 10 April 2008 in the conference room of the REO to receive oral representations. Three representations were received. Before the close of the public consultation period, the proposed Guidelines were discussed by the LegCo Panel on Constitutional Affairs and the views of LegCo Members were taken into account in finalising the Guidelines. A total of 26 written representations were received through the public consultation exercise.

Section 3 – Changes after Public Consultation

5.6 After considering the representations and views of LegCo Members and

to reflect the latest relevant legislative amendments, the EAC made a number of changes to the proposed Guidelines. The major ones included:

- (a) specifying that a publisher would likely contravene the relevant legislation if the requirements for publishing and distributing EAs are not complied with prior to distributing free publication which is considered to have the effect of promoting or prejudicing the election of a particular candidate/candidates. The Guidelines were made in response to representations calling for the regulation of special newspaper editions or similar publications distributed on the polling day;
- (b) adopting additional control measures on the conduct of exit polls. If a person or an organisation allowed to conduct exit poll fails to comply with the terms of the undertaking and the relevant guidelines, the approval to conduct exit poll on the polling day or during the polling hours may be revoked. A reprimand or censure in a public statement which includes the name of the infringing person or organisation may also be issued. The additional measures were introduced in response to representations calling for tightening the control on the conduct of exit poll;
- (c) setting out that the display of EAs at railings and fences should not distract or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians. The proposed Guidelines were revised to strike a balance between the views that the proposed prohibition against erection of

buntings on railings on public pavement might adversely affect the election atmosphere on the polling day and the need to ensure road safety; and

- (d) setting out the revised election expense limits and the enhanced rate of financial assistance to candidates to reflect the latest amendments to the relevant legislation.

5.7 The EAC held a press conference on 10 July 2008 to announce the publication of the finalised version of the Guidelines, and a press release was issued on the same day. 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 a copy of the Guidelines when he or she submitted the nomination form.

CHAPTER 6

APPOINTMENTS AND NOMINATIONS

Section 1 – Appointment of Nominations Advisory Committees

6.1 Four legal professionals were appointed as members of the Nominations Advisory Committees (“NACs”) under the EAC (NAC) (LC) Reg to provide the ROs and candidates with free legal advice on the eligibility of the candidates, in case they needed it. Members of the NACs, including Messrs Kevin Chan, Ho Bing-kwan, Lui Kit-ling and Wong Ching-yue, Senior Counsel, were experienced members of the legal profession and were not affiliated with any political organisations. Their appointment covered the period from 11 April 2008 to 4 August 2008 and was published in the Gazette on 11 April 2008. During their appointment period, the NACs received 13 requests from the ROs and candidates for legal advice.

Section 2 – Appointment of and Briefings for ROs

6.2 Five DOs of the HAD and 18 directorate officers of relevant policy bureaux were appointed ROs of GCs and FCs respectively on 20 June 2008.

6.3 The EAC Chairman hosted a briefing session for all the ROs in the afternoon of 7 July 2008 at the North Point Government Offices. Also attending the briefing session were the CEO/REO and representatives of the Department of Justice (“DoJ”), ICAC, Food and Environmental Hygiene Department, Housing

Department and Lands Department. The EAC Chairman highlighted the major electoral arrangements for the ROs' attention, including the nomination procedure, appointment of agents, polling and counting arrangements, matters relating to the NCZ and NSZ, provisions in the legislation and the Guidelines governing EAs and election expenses, and handling of complaints. Representatives from the ICAC briefed the participants on the major provisions of the ECICO and the procedures for the referral of complaints related to the Ordinance to the ICAC.

6.4 With the assistance from DoJ, another briefing had also been organised for the ROs to acquaint them with the legislation relating to the ruling of questionable ballot papers. The opportunity had also been taken in this briefing to familiarise the ROs with the operation of the Central Counting Station ("CCS") on the polling day.

Section 3 – Appointment of Assistant ROs

6.5 To provide assistance to the ROs, 74 Assistant ROs ("AROs"), who were senior officers of District Offices or relevant policy bureaux, were appointed. For providing legal advice to the ROs and PROs during the count, 34 AROs (Legal) were also appointed. They were all legally qualified persons, the majority of whom came from the DoJ and the rest from the Land Registry, Legal Aid Department, Independent Police Complaints Council and Official Receiver's Office.

Section 4 – Nomination of and Briefing for Candidates

6.6 The validity of the nomination of candidates for GCs and FCs were governed by the LCO and the nomination procedure was set out in the EAC (EP) (LC) Reg.

6.7 Nomination commenced on 19 July 2008 and closed on 1 August 2008. This two-week period was gazetted on 20 June 2008. During this period, candidates were required to submit their nomination forms in person to the respective ROs.

Geographical Constituencies

6.8 By the close of nominations, a total of 57 lists of nominations were received. 53 lists were confirmed valid by the ROs, two were withdrawn and two were ruled invalid. The two invalid lists composed of one person each. 53 lists of validly nominated candidates for the five GCs were published in the Gazette on 11 August 2008.

Functional Constituencies

6.9 By the close of nominations, a total of 60 nominations were received. 59 were confirmed valid by the ROs and one was ruled invalid. The names of 59 validly nominated candidates for the 28 FCs were published in the Gazette on 11 and 15 August 2008. There were 12 FCs uncontested.

6.10 The EAC Chairman held a briefing session on 5 August 2008 at the Hongkong International Trade and Exhibition Centre (“HITEC”) in Kowloon Bay to draw the attention of the candidates and their agents to the major provisions of the relevant electoral legislation and the Guidelines. Topics included polling and counting arrangements, requirements relating to EAs and election expenses, appointment and roles of the various types of agents, conduct of electioneering activities, avoidance of corruption and illegal practices, the need to protect the privacy of electors with respect to personal data used for electioneering purpose and avoid causing noise nuisance to residents in conducting canvassing activities. The latter two were the subjects of a number of complaint cases in past elections. All the candidates and their agents were reminded to peruse the electoral legislation and Guidelines in detail.

6.11 The EAC Chairman reminded the candidates and their agents to abide by the requirements laid down in the electoral legislation and the Guidelines and to cooperate with the authorities concerned to ensure that the election would be conducted in an open, fair and honest manner. He stressed that the EAC and all the government departments concerned would enforce the law and the Guidelines.

6.12 After the briefing session, the ROs drew lots to determine the order of the candidates’ names that would appear on the ballot paper and the designated spots to be allocated to the candidates for displaying their EAs.

Section 5 – Printing of the “Introduction to Candidates”

6.13 The “Introduction to Candidates” showing the name, photograph, political platform and other details of candidates was mailed to electors to facilitate their making an informed choice when casting their votes for particular candidates.

6.14 A new arrangement was made to provide clear pagination and candidate number on each page of the “Introduction to Candidates” for easy reference. The “Introduction to Candidates”, together with the poll card, Guide on Voting Procedure, the location map of the polling station and the ICAC leaflet on clean election were sent to each registered elector at least ten days before the polling day in accordance with section 31 of the EAC (EP) (LC) Reg.

CHAPTER 7

POLLING AND COUNTING ARRANGEMENTS

Section 1 – Recruitment of Polling and Counting Staff

7.1 A service-wide recruitment exercise was launched to invite suitable serving civil servants from various government departments to serve as electoral staff. For the GC elections, the polling-cum-counting arrangement was adopted, and staff were recruited to take up both polling and counting duties. They also had to serve FC electors who went to the polling stations to cast both GC and FC votes. Since centralised counting was adopted for FCs, counting staff had to be recruited for the counting of FC votes at the CCS.

7.2 Some 18,500 applications were received as opposed to about 15,600 applications in the 2007 DC Election and about 21,815 applications in the 2004 LegCo Election. Around 16,700 staff members of various government bureaux and departments were appointed PROs, Deputy PROs (“DPROs”), Assistant PROs (“APROs”), Polling Officers, Polling Assistants, Counting Supervisors, Assistant Counting Supervisors, Counting Officers and Counting Assistants on the polling day.

7.3 Those who were appointed PROs, DPROs and APROs were selected from senior non-directorate government officers. Other junior polling staff were appointed from the ranks of relatively junior government officers. Each appointee was 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 GC concerned. This arrangement would bolster the neutrality and independence of the electoral arrangements and avoid the perception of collusion which might compromise the integrity of the election.

7.4 Staff were deployed to the polling-cum-counting stations, taking into account the specific need of each polling station, the working experience of staff in previous elections and the location of their residence.

Section 2 – Briefing for PROs

7.5 The REO had enlisted the assistance of the Civil Service Training and Development Institute (“CSTDI”) and management consultants in designing a series of management training sessions for strengthening the quality of polling management. Topics included important provisions of the EAC (EP) LC Reg, key to quality customer and polling service, crisis management and EQ training. There was also a session in which experienced PROs were invited to share their experience.

Section 3 – Training for Polling and Counting Staff

7.6 Ten training sessions were organised in August and September 2008 at the Queen Elizabeth Stadium to equip the general polling staff with the necessary knowledge for discharging their duties. Topics included polling and counting arrangements, contingency arrangements and mock counting demonstration and exercise. Polling staff tasked to perform statistical compilation duties were

required to attend one workshop to provide them with hands-on exercises. A total of ten workshops were organised variously at the Queen Elizabeth Stadium, the Central Library and a secondary school.

7.7 Nine briefing-cum-mock counting sessions were held from 25 to 29 August 2008 at the Quarry Bay Community Hall to familiarise the counting staff recruited for counting FC votes at the CCS with the counting procedures and to provide them with hands-on practice.

7.8 Considerable efforts were spent to improve and update the training materials. The materials were revamped to focus on enhancing electoral staff's understanding of their core duties and familiarising them with the relevant legislation. A training video on the "do's and don'ts" for polling staff was produced showing various scenarios on common problems encountered by polling staff at polling stations on the polling day. In addition, the salient points and core duties on polling and counting management were summed up in the form of "weekly tips", issued through email messages to all PROs and DPROs in the five weeks leading up to the election to refresh and strengthen their understanding of the polling and counting arrangements.

Section 4 – Identifying Venues as Stations

7.9 The overriding principles in identifying venues to be used as polling stations were their convenience and accessibility. Another essential factor in the selection of venues was that they should be sufficiently spacious to cater for the number of electors. Where possible, venues which had been used previously as polling stations were selected for the election.

7.10 Successful acquisition of a suitable venue depends on the willingness and co-operation of the owner or management of the venue and the availability of the venue on the polling day. The REO had encountered difficulties in securing permission from some owners or management bodies of private premises for using their venues. The majority of the reasons put forward for rejecting the REO's requests was that activities had already been scheduled on the polling day. The REO managed to secure 532 venues to be designated as polling stations.

Section 5 – Polling Arrangements

7.11 Of the 532 venues, 13 were designated as small polling stations serving an electorate of less than 500, and 434 were designated as special polling stations accessible to the disabled.

7.12 On the day preceding the polling day, the polling staff, with the assistance of the REO staff, set up the designated venues as stations, in such a way that the stations would suit the functions of a polling station for both GCs and FCs and a counting station for GCs. Voting compartments, ballot boxes and ballot paper issuing desks were provided in all polling stations. All polling stations, except the 13 small polling stations, were converted to counting stations after the close of the poll.

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

7.14 The staff manning the polling-cum-counting stations were required to work through the polling and counting hours. In view of the long polling and counting hours, a more attractive remuneration package tied to the number of working hours was adopted. The normal rates were fixed on the basis that the polling-cum-counting staff would be required to work for 18 hours from the commencement of polling up to 1:30 am following the polling day. Overtime rates were calculated on an hourly basis for each additional hour after 1:30 am.

Helpdesks

7.15 Helpdesks were set up in the Central Command Centre (“CCC”) in Guardian House to answer enquiries from the polling staff and provide them with the necessary backup support including additional equipment and manpower requirement.

Ballot Boxes

7.16 In the light of the problems encountered in the 2004 LegCo Election associated with the size of the ballot boxes and the numbers required for each polling station, we have improved the design of the ballot boxes. These ballot boxes were subsequently used in 2006 Election Committee Subsector Elections and 2007 LegCo By-election (Hong Kong Island GC) and were used for the first time in the LegCo GC Election. The ballot box was designed to receive ballot papers that were required to be folded once before they were cast. Repeated tests were conducted to ascertain the number of ballot papers that a ballot box could hold to ensure that sufficient number of ballot boxes would be made available on the polling day.

Section 6 – Counting Arrangements

Geographical Constituencies

7.17 The “list system of proportional representations” was adopted for the GC elections. The EAC considered in the light of the past experience that the polling-cum-counting arrangement would be adopted. This arrangement could reduce the time and risk involved in the transportation of ballot boxes from the polling stations to counting stations. It helped to achieve the object of efficient counting and saving manpower and financial resources, and was conducive to early availability of election results.

7.18 An ARO (Legal) was stationed at each District Office to provide 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.

7.19 To ensure openness and transparency of the counting process, the polling agents and counting agents were allowed to stay in polling stations after the close of the poll to monitor the conversion of the polling stations into counting stations. Apart from the candidates themselves and their counting agents, members of the public and the media could also observe the counting process.

7.20 With the exception of the small polling stations, all polling stations were converted into counting stations after the close of the poll. Where there were two or more polling stations in the neighbourhood, with one of which being a small polling station, a station would be designated by the CEO/REO as the main counting station. Ballot papers cast at the small polling station were sent to the main counting station for counting.

7.21 At the commencement of the count, the PRO assumed the role of the counting supervisor. He was also responsible for determining the validity of questionable ballot papers.

Functional Constituencies

7.22 With the exception of the four special FCs: Heung Yee Kuk, Insurance, Transport and Agricultural & Fisheries for which the “preferential elimination system” was adopted, the “first past the post system” was applicable to the FC election. A centralised counting approach was adopted. All ballot boxes for FC votes from different polling stations were transported to the CCS for counting after the close of the poll.

Central Counting Station

7.23 The CCS was set up in the HITEC.

7.24 Based on past experience, a number of measures were adopted to streamline and speed up the counting of votes for FCs for the 2008 LegCo Election.

These measures included:

- (a) ten primary unloading points were set up outside the HITEC, with designated officers guiding polling staff to convey ballot boxes to the counting hall. Five secondary unloading points were also designated;
- (b) a total of 50 reception counters were set up to receive the ballot boxes and their accompanying documents. Ballot boxes thus received were stored temporarily at the Ballot Box Deposit Area before being transported to the counting zones;
- (c) a total of 125 counting tables were deployed for opening ballot boxes. Once opened, the ballot papers contained therein would be sorted in accordance with the respective FCs. The sorted ballot papers were then delivered to their respective FC counting tables for counting; and
- (d) the ROs/AROs of uncontested FCs assisted in opening ballot boxes and sorting the ballot papers of contested FCs.

Section 7 – The Fast Response Team (“FRT”)

7.25 In line with the recommendation of the Report of the Independent Committee of Experts for the Review for the Management, Planning and Conduct of Elections published in May 2005, a FRT comprising experienced personnel was first appointed to conduct random checks on the operation of the polling and counting stations and the performance of the polling and counting staff to ensure

that the stipulated electoral procedures and requirements were strictly followed.

7.26 The FRT comprised seven members. Polling stations in each of the five GCs would be taken care of by at least one member of the FRT. Apart from conducting audit inspection of polling stations and advising PROs to take remedial or improvement measures where necessary, the FRT was also tasked to deal with enquiries on electoral arrangements made by 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 make recommendations on the follow-up actions. The FRT was also required to handle emergency cases relating to polling stations as directed by the CCC.

Section 8 – Contingency Measures

7.27 The following arrangements were adopted to cater for inclement weather or 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/counting 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 to which electors were denied access;

- (d) setting up an Emergency Depot in each of the 18 districts to provide logistic support to respective polling stations in each district; and
- (e) preparation of public announcement notices in the event that any of the contingency arrangements as set out in paragraphs 7.27 (a), (b) or (c) above had to be implemented.

7.28 A significant number of polling stations were schools and post offices. It was therefore necessary for the REO to vacate these premises before they resumed operation in the morning of 8 September 2008. In the event that the counting of GC votes could not be completed and had to take place in a reserved counting station, a detailed contingency plan was drawn up and a number of reserved counting stations were identified.

Section 9 – Release of Counting Results

7.29 In accordance with the practice in the 2004 LegCo Election, the REO posted results of individual counting stations in the Media Centre. The press and the media were informed of such an arrangement in the press releases issued on 4 and 5 September 2008.

CHAPTER 8

PUBLICITY

Section 1 – An Introductory Note

8.1 Publicity is an important element in any election. It arouses the awareness of the public and encourages them to participate in the election by registering as electors, seeking candidature or assisting in canvassing or promotional activities. It also serves to disseminate the relevant information to candidates and electors efficiently and to remind them to vote on the polling day. In the 2008 LegCo Election, the EAC and other government departments concerned contributed much to the publicity of the election.

8.2 Apart from the voter registration campaign described in Chapter 3, other publicity activities organised are detailed in the following paragraphs.

Section 2 – The EAC and the Media

8.3 A kick-off ceremony of the Voter Turnout Publicity Campaign for the 2008 LegCo Election was organised by the RTHK on 19 July 2008. The objectives of the Campaign were to promote general awareness of the 2008 LegCo Election and to call upon registered electors to vote. It also encouraged nominations of candidates, publicised the electoral procedures, and promoted clean and fair election.

8.4 On 5 August 2008, the EAC Chairman conducted a briefing for the candidates at the HITEC. The event received wide coverage by the media.

8.5 Mock polling stations, set up at the Leighton Hill Community Hall, Kowloon Park Sports Centre, Tuen Mun Town Hall and Tai Po Community Centre, were open to the public from 4 to 6 September 2008 to allow members of the public to familiarise themselves with the station set up and voting procedure. The Chairman met the media on 3 September 2008 to introduce the arrangements of the 2008 LegCo Election and demonstrate the voting procedure at the Leighton Hill Community Hall.

8.6 The Chairman and the two EAC Members also met the media and updated them with the progress of the election at various intervals on the polling day.

Section 3 – Other Publicity by the EAC

8.7 Apart from meeting with the media, the EAC and staff of the REO also attended a number of meetings and briefings to discuss electoral issues with various bodies. Meetings were held with representatives of political parties on various electoral matters. Briefings were held for Mutual Aid Committees, Owners' Corporations and management companies of buildings to enhance their understanding of how applications for electioneering activities by candidates should be fairly handled. These briefings were well received and the audience participated actively during the Question-and-Answer sessions.

8.8 The REO also issued press releases to keep the public informed of important events at different stages of the election leading to the polling day.

Section 4 – Publicity by Other Government Departments

8.9 The Administration, with a budget of \$30 million, launched a seven-week Voter Turnout Publicity Campaign from 19 July 2008 to the polling day on 7 September 2008. The object of the Campaign was to call on all registered electors to cast their votes and to promote public awareness of electoral arrangements. Publicity activities included APIs on the television and radio, special TV and radio programmes, posters, banners, vantage points advertising, newspaper and internet advertisements, parades, roving exhibitions and production of souvenirs. Two APIs, aiming at reminding electors to follow the proper voting procedures and the disabled electors to apply in time for re-allocation to another polling station if the designated polling station was not accessible to them, were produced. The publicity programme was coordinated by the CMAB with the assistance of the HAD, ISD, ICAC, RTHK and REO.

8.10 The RTHK organised election forums for both GC and FC elections, which were broadcast on the TV and radio and could be viewed on the RTHK website.

8.11 The ISD launched a website to facilitate public access to information relating to the 2008 LegCo Election.

8.12 The ICAC produced an information folder containing the legal provisions and practical guidance for all candidates and their agents. A briefing was conducted for candidates and their agents on the ECICO requirements. An ICAC leaflet reminding electors of the importance of clean election was produced and distributed to each elector with the assistance of the REO. The ICAC also publicised the clean election messages through APIs on the television, radio and other channels.

PART THREE

ON THE POLLING DAY

CHAPTER 9

CENTRAL SUPPORT

The Central Command Centre (“CCC”)

9.1 The CCC was set up at the REO office in Guardian House on the polling day to oversee electoral arrangements for the purpose of providing a wide range of services to electors, candidates/agents, ROs/PROs and members of the public. The CCC was put under the direct supervision of the CEO who was deputised by the Principal Electoral Officer (“PEO”). This command structure had significantly enhanced the ability of the CCC in responding swiftly to problems associated with the election on the polling day.

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

Complaints Centre

9.3 A Complaints Centre (“CC”) was set up at the REO office in Harbour Centre to receive and process election-related complaints. Complainants could lodge their complaints by telephone, by fax or through email. The CC was manned by staff of the Complaints Unit of the EAC Secretariat and operated throughout the polling hours. A total of 612 complaints were received and handled on the polling day.

Statistical Information Centre

9.4 The Statistical Information Centre (“SIC”) was responsible for compiling and collating the hourly voter turnout statistics for both GCs and FCs, as well as the counting results for the GCs. All the polling stations were required to submit their hourly voter turnout figures and GC counting results to the SIC by fax. Based on the information received, the SIC collated and released the statistics to the public through regular press releases and such information were disseminated through the dedicated website. The collection and compilation of the hourly voter turnout statistics and the GC counting results were, in general, smoothly conducted on the polling day. There were a number of minor problems on the reporting of FC voter turnouts by some polling stations. The EAC noted that the polling stations were required to compile one set of account for GC and 16 sets of accounts for the FCs and report the statistics to the SIC every hour. In order to enhance the efficiency and accuracy of the hourly statistical reports for future elections, it is considered necessary to review the existing reporting procedures.

CHAPTER 10

THE POLL

Section 1 – General

10.1 On the polling day, 532 polling stations, of which 434 were special polling stations accessible to disabled electors, were open for operation. Polling hours started at 7:30 am and ended at 10:30 pm. The closure time of two polling stations were extended as the poll was interrupted by power failure. The details of the incidents are covered in Section 2 of this Chapter. In general, the poll was smoothly and efficiently conducted.

10.2 On electors' turnout, for GCs, a total of 1,524,249 electors were recorded to have turned up at their respective stations to cast their votes, which represented 45.20% of the electorate of 3,372,007. The turnout rates for GCs, though lower than those in the 2004 LegCo Election (1,784,406 electors or 55.64%), were higher than those in the 2000 LegCo Election (1,331,080 electors or 43.57%).

10.3 For FCs, a total of 126,819 electors cast their votes for the contested constituencies, amounting to 59.76 % of the electorate of 212,227 of these FCs. The turnout rates for FCs, though lower than those in the 2004 LegCo Election (134,852 electors or 70.10%), were higher than those in the 2000 LegCo Election (92,112 electors or 56.50%).

10.4 A breakdown of the turnout rate by constituency for this election is shown at **Appendix V**.

10.5 On the polling day, the FRT visited 117 polling stations in the 18 districts. Special visits were made to polling stations as directed by the CCC, as and when necessary, to assist in resolving on-the-spot difficulties and to offer advice to the PROs.

Section 2 – Issues During the Poll

(a) Excessive Ink of Tick Chops

The issue

10.6 On the polling day, a number of electors complained about the excessive ink-flow from some of the tick chops having a tendency to smear the tick marks affixed on the ballot papers. There were concerns that the smeared marks might render the ballot papers invalid.

Relevant legislation

10.7 According to sections 55 and 57 of the EAC (EP) (LC) Reg, when marking ballot papers for GCs and ordinary FCs, an elector (or an AR in the case of an ordinary FC) must mark his ballot paper with the chop provided to give a single “✓” in the circle opposite the list of candidates or candidate of his choice. In the counting of votes, when considering whether the vote recorded on a ballot paper is

valid, regard will be paid as to whether the ballot paper is marked in accordance with the aforesaid sections. Section 81(3) of the EAC (EP) (LC) Reg provides that if the RO or the PRO is satisfied that the intention of the elector or authorised representative is clear notwithstanding the deviation from the specified requirements, that officer may count the vote recorded on that ballot paper.

Follow-up action

10.8 When the issue concerning the tick chops was brought to the attention of the REO in the morning of the polling day, the REO immediately informed the PROs in all polling stations that electors should be reminded to affix the tick marks gently. The PROs were also advised that if an elector was concerned that his ballot paper might be ruled invalid because of the smeared mark, the PRO might issue another unmarked ballot paper for him to cast his vote. If a new ballot paper was issued to the elector, the PRO would endorse, in accordance with the electoral law, on the front of the original ballot paper with the word “Spoilt” and keep it separately. The spoilt ballot papers would not be counted.

10.9 The REO reminded all PROs of sections 80(2) and 81(3) of the EAC (EP) (LC) Reg and that during the counting of the votes, if the tick marks on the ballot papers were identifiable within the circle opposite the list of candidates or candidate of his choice, the polling staff could consider those ballot papers valid. Ballot papers with doubtful validity should be set aside as questionable ballot papers for determination by the PRO.

10.10 The CCC also directed the FRT to look into the situation at the polling stations during their visits and to remind the PROs concerned of the above instructions, as appropriate. The REO had taken prompt action to address the issue.

(b) Power Failures in Two Polling Stations

10.11 The poll was interrupted for 25 minutes and seven minutes respectively by power failures at the polling stations at Buddhist Chung Wah Kornhill Primary School (C2701) in Quarry Bay and Tung Wah Group of Hospitals Lee Chi Hung Memorial Primary School (C1001) in Chai Wan. To ensure electors at particular polling stations would have a voting period of 15 hours, closure time was extended to compensate for the duration of the power failures. The details of the incidents are set out in the following paragraphs.

(i) Buddhist Chung Wah Kornhill Primary School in Quarry Bay, Hong Kong
(polling station code C2701)

10.12 At 6:40 pm, power failure caused a blackout in the polling station. The PRO immediately contacted the contractor of the Electrical and Mechanical Services Department (“EMSD”) to address the problem and the polling station had to be closed temporarily.

10.13 The EMSD’s contractor informed the PRO that the power failure was caused by tripping of the main switch. Power resumed in the polling station at 7:05 pm after the main switch had been reset. The polling station was re-open to the electors.

10.14 The power failure lasted for 25 minutes. The EAC decided to exercise the power vested with the Commission under section 5(g) of the EACO to extend the closure time of the polling station by 25 minutes for electors to cast their votes. Hence, the poll would end at 10:55 pm instead of 10:30 pm as originally promulgated. A press release was issued at 9:39 pm to announce the arrangement, and a notice about the extension was displayed in the polling station. The manning hours of the EAC's Complaints Hotline were also extended correspondingly by 25 minutes.

10.15 Between 10:30 pm and 10:55 pm, 15 electors cast their votes.

(ii) Tung Wah Group of Hospitals Lee Chi Hung Memorial Primary School in Chai Wan, Hong Kong (polling station code C1001)

10.16 At 7:43 pm, power failure caused a blackout in the polling station. The PRO of the polling station reported instantly the incident to the REO, and the contractor of the EMSD was requested to take remedial action immediately. The polling station had to be closed temporarily.

10.17 Power resumed in the polling station at 7:50 pm after the APRO together with the caretaker of the school reset the main switch, and the polling station was re-open to the electors. The power failure was caused by tripping of the main switch. The EMSD's contractor arrived at the polling station shortly after the resumption of power to inspect the electrical installation.

10.18 The power failure lasted for seven minutes. The EAC decided to exercise the power vested with the Commission under section 5(g) of the EACO to extend the closure time of the polling station by seven minutes for electors to cast their votes. Hence, the poll would end at 10:37 pm instead of 10:30 pm as originally promulgated. This arrangement was consistent with that adopted for the Buddhist Chung Wah Kornhill Primary School as mentioned in paragraph 10.14. The press release issued by the EAC at 9:39 pm also covered the extension arrangement for this polling station. A notice about the extension of the polling hours was put up in the polling station.

10.19 Between 10:30 pm and 10:37 pm, seven electors cast their votes.

CHAPTER 11

THE COUNT

Section 1 – Geographical Constituencies

11.1 The polling-cum-counting arrangement was adopted for this election. All polling stations, with the exception of 13 small polling stations, were converted into counting stations after the close of the poll for the counting of GC votes cast in the polling stations. FC votes were conveyed to the CCS for counting.

11.2 The average time taken for the polling stations to be converted into counting stations for GCs was one hour. The EAC considers that the time taken was acceptable in view that the polling staff was busily engaged in compiling statistics for not only GCs but also the various FCs at the close of the poll, apart from the physical conversion of the polling stations.

11.3 The ballot boxes containing cast ballot papers from the 13 small polling stations were conveyed to their respective main counting stations. These ballot papers were then mixed with those cast at the main stations before they were counted, in order to preserve the secrecy of the votes cast in the small polling stations.

11.4 Invalid ballot papers were set aside during the counting process. They were not counted and were not treated as questionable ballot papers. Ballot papers with doubtful validity were set aside as questionable ballot papers, the validity of

which would be decided by the PRO. A summary of invalid and questionable ballot papers is at **Appendix VI**. A summary of invalid ballot papers kept by PROs is at **Appendix VII(A)**.

11.5 During the count, ROs and AROs of GCs stationed at the CCS oversaw the count at the counting stations of their respective GCs, with the assistance of AROs (Legal). When the counting at a polling station was completed, the PRO reported the counting result to the SIC by fax. The SIC in turn reported to the AROs of GCs through the computer terminals set up in the ROs' offices at the CCS. When the counting results of all counting stations in a GC (including GC ballot papers misplaced in FC ballot boxes counted at the CCS) were available, the RO was informed of the consolidated counting result of all counting stations, the RO then informed the candidates and/or their agents present at the Media Centre of the consolidated result. The election results were declared when there was no request for re-count from the candidates.

11.6 As a measure to enhance election transparency and to facilitate timely dissemination of interim statistics, counting results as at 1:00 am and 2:30 am were released to the media and were made available for those present at the Media Centre. Counting results of individual counting stations were posted at the Media Centre for the candidates, the public and the media.

11.7 The counting results for all GCs were declared between 5:00 am and 6:40 am on 8 September 2008.

11.8 The election results for GCs were gazetted on 12 September 2008 and are now re-produced at **Appendix VIII** for easy reference.

Section 2 – Functional Constituencies

11.9 The counting of votes for the 16 contested FCs was held centrally at the CCS. In the CCS, areas were designated for candidates, their agents, the media and members of the public to observe the count. An RO was designated as the Chief RO to supervise the overall operation of the CCS.

11.10 At the CCS, all FC ballot boxes were delivered to and opened by the RO or ARO at the counting zones. The ballot papers were sorted by the counting staff in accordance with the respective FCs. The sorted ballot papers were sealed and delivered to the designated General Zone which served as a central clearing area. Staff in the General Zone then delivered the sorted ballot papers of the same FC to the respective FC counting tables for mixing before they were counted. To preserve the secrecy of the votes, the ballot papers were arranged to face downwards during the sorting process.

11.11 Any misplaced GC ballot papers identified were also sealed and delivered to the General Zone. The misplaced GC ballot papers of the same GCs were grouped together before they were handed over to the respective RO(GC)s. A total of 11 misplaced GC ballot papers from four GCs were found in the FC ballot boxes.

11.12 The respective RO was responsible for determining the validity of questionable ballot papers identified by counting staff during the counting process. A summary of the ballot papers not counted for FCs is at **Appendix IX**. A summary of invalid ballot papers kept by PROs is at **Appendix VII(B)**. The results of all segment counts were then added up to produce the overall result of each FC.

11.13 The counting results for individual FCs were declared from about 5:40 am to around 8:00 am on 8 September 2008.

11.14 The election results of the 16 contested FCs were published in the Gazette on 12 September 2008. All the election results of the FCs are re-produced at **Appendix X** for easy reference.

CHAPTER 12

EAC VISITS

12.1 The EAC Chairman and the two Members visited a total of 22 polling stations covering all 18 districts. The EAC Chairman and Members first cast their votes at their designated polling stations before they visited polling stations in different districts respectively. Two media briefings were held, one in the morning at the Leighton Hill Community Hall and one in the afternoon at the Morse Park Sports Centre, to provide election statistics and answer questions from the media.

12.2 The EAC Chairman and Members and the Secretary for Constitutional and Mainland Affairs accompanied the CE to open and empty a ballot box at Wong Nai Chung Sports Centre around 11:30 pm. The event attracted wide media coverage.

12.3 The EAC closely monitored the events on the polling day and on a number of occasions issued directives to address problems encountered.

PART FOUR

VOICES FROM THE PUBLIC

CHAPTER 13

COMPLAINTS

Section 1 – A General View

13.1 The complaints-handling mechanism is one of the means to ensure the fairness and safeguard the integrity of the electoral system. Some complaints revealed deficiencies in a number of areas of electoral arrangements and helped the EAC to bring about better arrangements for future elections.

13.2 The complaints-handling mechanism also provides a monitoring system among candidates themselves. 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

13.3 For the 2008 LegCo Election, the complaints-handling period started on the day when the nomination period commenced on 19 July 2008, and ended 45 days after the polling day on 22 October 2008.

Section 3 – The Complaints-handling Parties

13.4 Five different parties were designated for handling and processing complaints. They were the EAC, ROs, Police, ICAC and, on the polling day, the PROs as well. 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 complaint. A Complaints Committee (“CCm”) was set up under 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 EAC Chairman and two Members and a District Court Judge nominated by the Chief Justice. The CCm was supported by the Complaints Unit of the EAC Secretariat. The division of work was as follows:

- (a) the ROs were responsible for handling complaint cases of a minor nature under the authority delegated to them by the EAC, including those relating to EAs, electioneering activities conducted on private premises, use of sound amplifying devices;
- (b) the Police handled cases that involved possible criminal liability, breaches of the EAC (EP) (LC) Reg and criminal damage of EAs;
- (c) the ICAC attended to cases that involved possible breaches of the ECICO, Prevention of Bribery Ordinance, Cap 201 and ICAC Ordinance, Cap 204; and
- (d) the PROs handled complaints on the polling day at the polling stations and they were empowered to take action on those cases which required immediate attention.

Section 4 – Number and Nature of Complaints

13.5 By the end of the complaints-handling period, a total of 3,480 cases were received:

<u>Complaints-handling Party</u>	<u>No. of Complaints Received</u>
CCm	1,175
ROs	1,012
Police	633
ICAC	78
PROs	<u>582</u>
	Total: 3,480

The majority of the complaints concerned EAs (857 cases) and disturbances to electors caused by questionable canvassing activities (735 cases). A detailed breakdown of these cases by the receiving party and nature of complaints is shown on **Appendices XI (A)–(F)**. Certain categories of cases, which deserve special attention are detailed in Sections 7 to 9 below.

Section 5 – Complaints on the Polling Day

13.6 On the polling day, a CC was set up in the REO office in Harbour Centre to handle complaints. Designated police officers were on duty in the police stations in the 18 districts to attend to complaints. The ICAC officers also manned a complaints hotline during the polling hours. The PROs received complaints at the polling stations.

13.7 The total number of complaints received on the polling day was 2,300. The majority of the complaints were expeditiously dealt with and resolved.

13.8 The complaints received by the CC were handled promptly and where appropriate, they were referred immediately to the appropriate authority for action. Cases received by the ROs and PROs were also handled without delay. Some cases involving breaches of the ECICO and EAC (EP) (LC) Reg were referred to the appropriate law enforcement agencies for follow-up action.

13.9 Of the total of 1,995 complaints handled by the CCm, ROs and PROs on the polling day, 1,477 (74.04 %) were resolved on the same day.

13.10 The CC handled a total of 612 complaints on the polling day. 426 of these cases required further investigation. The remaining 186 complaints were resolved on the polling day.

13.11 A breakdown of the complaint cases received on the polling day is shown in **Appendices XII (A)–(F)**.

Section 6 – The Outcome of Investigations

13.12 As at 22 October 2008, of the 1,433 cases handled by the CCm, 54 were substantiated or partially substantiated. Of the 1,367 cases handled by the ROs, 549 were found substantiated or partially substantiated. A total of 167 warning letters had been issued to the infringing parties by the CCm and ROs.

13.13 The Police handled 728 cases. After investigation, 143 were substantiated. The ICAC handled 122 cases and none was found substantiated. There were still 246 cases under investigation by these two parties.

13.14 A breakdown of the outcome of investigations as at 22 October 2008 is detailed in **Appendices XIII (A)–(D)**.

Section 7 – Complaints about Nuisance

Noise

13.15 A number of complaints about noise nuisance were received from the general public. The majority of them was caused by amplifying devices when candidates conducted electioneering activities.

13.16 The EAC had provided candidates with guidance in the use of loudspeakers in paragraphs 12.2 to 12.5 of the Guidelines. The candidates were reminded that some members of the public found the sound or noise emitted by loudspeakers annoying and intrusive. When using loudspeakers, candidates should particularly bear in mind possible annoyance caused to other people. In order to reduce the nuisance caused to members of the public, the EAC had imposed a restriction that candidates were required not to use loudspeakers in electioneering between 9:00 pm and 9:00 am. Candidates and their agents were reminded to peruse the Guidelines in detail at the EAC Chairman's briefing held on 5 August 2008.

13.17 The ROs were responsible for handling complaints about the use of loudspeakers in electioneering between 9:00 pm and 9:00 am and for the substantiated cases, warning would be issued to the candidates concerned. Complainants, who lodged complaints about noise nuisance outside the aforesaid hours, were advised to seek assistance from the Police direct so that the Police could take necessary follow-up action.

Telephone Canvassing

13.18 A number of electors complained about canvassing telephone calls and SMS in the Election. Complainants considered such calls and SMS a nuisance. Some of them questioned how the canvassing parties obtained their personal data (including name and telephone number), and raised the concern that their privacy might be compromised.

13.19 In accordance with section 35 of the EAC (EP) (LC) Reg, the REO provided the candidates of the 2008 LegCo Election with an extract from the FR which contained the name, gender and residential address of electors of the relevant constituency. Telephone numbers were not part of the information provided. All candidates had signed an undertaking that the information they obtained would only be used for the 2008 LegCo Election.

13.20 The existing electoral legislation does not prohibit canvassing for votes by telephone. Paragraph 9.17 of the Guidelines reminded all candidates that privacy of the electors should be respected. A guidance note on personal data privacy in respect of electioneering activities, provided by the Office of the Privacy

Commissioner for Personal Data, was included at Appendix H of the Guidelines. The guidance note states that the act of canvassing for votes is not in contravention of the Personal Data (Privacy) Ordinance provided that personal data are obtained by means that are lawful and fair in the circumstances, and that the use of the data is directly related to the purpose for which the data are originally collected.

13.21 The EAC had amended the Guidelines to remind candidates that many electors consider canvassing messages sent to them through SMS annoying. Their disapproval may be reflected in their choice of candidates on the polling day. It is therefore unwise to telephone or send messages by SMS to electors who find such approach objectionable or to act in any other way that may antagonise them. On the other hand, electors who receive the objectionable telephone calls can just disconnect them. If the caller or sender does not desist from calling or sending messages and causes a nuisance, the elector should report the matter as soon as possible to the Police who may take action against the caller or sender. Electors who considered that their privacy had been compromised were advised to consider lodging complaints with the Office of the Privacy Commissioner for Personal Data direct.

13.22 With clear guidelines on telephone and SMS canvassing in place, and with the appeal made by the EAC Chairman in the briefing for candidates on controlling the volume of the sound amplifying devices during the electioneering activities, the EAC is pleased to note that the number of complaints concerning disturbances to electors caused mainly by loudspeakers and telephone/SMS canvassing has reduced substantially from 1,370 in the 2007 DC Election to 735 in the 2008 LegCo Election.

Section 8 – Exit Polls

13.23 In the 2008 LegCo Election, six organisations were approved to conduct exit polls upon application. The list of these organisations was uploaded to the website for the 2008 LegCo Election on 5 September 2008. The list was also displayed prominently outside the relevant polling stations.

13.24 On the polling day, a number of complaints were received about questionable exit poll activities including conduct of exit polls without approval and poll interviewers claiming that they were commissioned by the Government. There were also complaints that the conduct of exit polls had caused nuisance to some electors. Investigation into the complaints had been completed. One complaint case had been found partially substantiated and an advisory letter was issued to remind the organisation concerned of the need to comply with the guidelines at all times.

Section 9 – Judicial Reviews

13.25 Three applications for leave to apply for judicial review (“JR”) have been lodged.

13.26 On 8 August 2008, one Chan Kin-sum, Simon, a prisoner, applied for leave to apply for JR to challenge the constitutionality of sections 31(1)(b) and 53(5)(b) of the LCO which disqualify a prisoner from being registered as an elector and from voting (case no. HCAL 79/2008). Chan also sought an order of *Mandamus* directing the EAC to provide Hong Kong permanent residents who are

servicing a custodial sentence access to polling stations for the LegCo election to be held on 7 September 2008.

13.27 On 11 August 2008, the Hon Leung Kwok-hung lodged another JR application on similar grounds and sought similar relief as Chan's application (case no. HCAL 82/2008). The Hon Leung also sought an order of *Mandamus* directing the EAC to provide convicted persons and remanded unconvicted persons access to polling stations and/or facilities on 7 September 2008.

13.28 On 15 August 2008, one Choi Chuen-sun, a prisoner and a registered elector, applied for leave to apply for JR, seeking relief in similar terms as sought by Chan as well as an order of *Mandamus* directing the EAC to change his address to the prison address in the electoral register (case no. HCAL 83/2008).

13.29 The Secretary for Justice and the EAC are the first and second respondents of these three JR cases respectively. The Court has granted leave to the JR applications and the substantive hearing was held on 10 to 13 November 2008.

Section 10 – Election Petition

13.30 After the conduct of the election, Mr Mok Charles Peter, a candidate of the Information Technology FC, lodged an election petition against the Hon Tam Wai-ho, the elected candidate of the same FC, and the RO, on the ground of material irregularity and illegal conduct on the part of the Hon Tam.

13.31 The hearing date for this case is yet to be fixed by the court.

PART FIVE

AFTER THE POLLING DAY

CHAPTER 14

REVIEW AND RECOMMENDATIONS

Section 1 – A General Remark

14.1 The EAC is generally satisfied with the 2008 LegCo Election, which was organised and conducted in an open, fair and honest manner. After completion of the election, 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 also took into consideration suggestions from the public and issues raised in the complaints received. The areas reviewed and the related recommendations are set out in the paragraphs below.

Section 2 – Preparation Work

(A) The Central Counting Station

14.2 The CCS for the 2008 LegCo Election was set up in HITEC. As no single floor of HITEC was sufficiently large to accommodate the different units of the CCS, the ballot box reception and deposit areas, counting halls, Media Centre and offices of various working parties, were set up on four different levels.

14.3 The public area reserved for the media and the public to observe the counting of FC votes at each of the two counting halls at the Star Hall and Rotunda 2 on 3/F was constrained by the physical configuration of HITEC and the floor area

available. About 550 seats were made available to the candidates, agents and the public at the Media Centre on 6/F to observe the declaration of election results and interim results. In anticipation of possible crowd overflow, the REO had also arranged an additional 700 seats in the auditorium on 3/F for the public to observe the proceedings through video links.

14.4 During the count, the CCS was crowded with members of the public and supporters of the candidates. Despite repeated requests by the REO that seats were available at the auditorium, the supporters of the candidates and the public were reluctant to take up the seats there. As a result, the Media Centre became very crowded. The condition improved as the election results were declared.

Recommendation:

14.5 The EAC recognises that, in Hong Kong, there are limited choices of venue which could meet all the requirements of the CCS, and that each venue has its own strengths and corresponding weaknesses. If possible, the REO should identify a venue with adequate floor area for the setting up of the entire CCS on a single floor for future general elections to achieve better coordination among different units of the CCS. The EAC considers that, subject to a suitable venue being identified, a sufficiently large public area should be provided in the counting hall and the Media Centre of the CCS in future elections for the supporters of the candidates and members of the public.

(B) Sending Election Advertisements and Related Materials

14.6 Some electors raised concerns over the large number of EAs sent to them by the candidates. They suggested that for environmental protection, candidates should only be allowed to send one copy of EAs to each household under the same registered address, rather than to each member of the same household. In order to respect and preserve the right of individual electors to access EAs, the REO had continued with the established practice of providing candidates with address labels on an individual elector basis for the 2008 LegCo Election. The address labels for electors of the same registered address were grouped together for easy identification so that the candidates could arrange for sending their EAs to electors on a household basis if they chose to do so. It is the candidate's choice to send the EAs on either individual or household basis. The EAC considers it inappropriate to interfere with candidates' election strategy. In order to reduce the consumption of address labels in the 2008 LegCo Election and to address environmental concerns, the REO provided the address labels to candidates only upon their request. Address labels were not supplied on those electors who had provided their email addresses.

Recommendation:

14.7 The EAC considers that candidates should be encouraged to disseminate EAs by electronic means. Continuous efforts should be made by the REO to solicit email addresses from electors, so that candidates can choose to send EAs to electors by electronic means.

(C) Change of Addresses

14.8 There were complaints from electors that they were not allowed to cast their votes in the GCs corresponding to their new addresses, although they had informed the REO of their new addresses before the polling day. Of the complaints received, the complainants notified the REO of their change of addresses only after the statutory deadline.

Recommendation:

14.9 The EAC notes that the above situations may be inevitable as there is a time-gap between the publication date of the FR and the polling day. The REO should consider launching more focused publicity programmes to remind electors of the importance of promptly reporting their new addresses within the deadline specified by the REO.

(D) Selection of Polling Stations

Using closed schools as polling stations

14.10 The EAC noted that in past elections, a polling station was set up at a school in Ngau Tau Kok, which was easily accessible to electors residing in its vicinity. The school was not chosen as a polling station for the 2008 LegCo Election in the first instance because it had been closed down for demolition. The REO was informed later by the relevant authorities that the school would not be demolished before the polling date and could therefore be used on the polling day.

Immediate arrangements were made to include the school as a polling station for the convenience of the electors.

Recommendation:

14.11 The EAC considers that in identifying suitable venues for polling stations in future elections, schools which had been closed down pending demolition or reconstruction may still be considered as possible venues. The REO should liaise with the relevant authorities to find out the demolition schedules of those schools with a view to expanding the pool of choices for setting up polling stations.

Section 3 – The Guidelines

Exit Polls

14.12 Public views had been received by the EAC before and after the publication of the Guidelines that the release of exit poll results before the close of the poll for electioneering purpose should not be allowed as such an act may influence the outcome of elections. The EAC was of the view that paragraph 15.4 of the Guidelines had sufficiently addressed the issue.

14.13 On 2 September 2008, an organisation intending to conduct exit polls in the 2008 LegCo Election had announced to the media that it would advance the release of the exit poll results to its media sponsors from 9:00 pm to 12:30 pm on the polling day. The intention of the organisation had aroused considerable concern

as premature disclosure of exit poll results would influence electors' voting preference. Some candidates responded by openly urging electors not to respond to exit polls.

14.14 In view of the concerns over the conduct of exit polls, the EAC issued a public statement on 2 September 2008 stressing that the EAC attached great importance to ensuring that all public elections were held in an open, fair and honest manner and would closely monitor the election on the polling day. The EAC also reminded the media and the organisations concerned that they should comply with the Guidelines at all times.

14.15 On 3 September 2008, the same organisation announced that it would only release the exit poll results to media sponsors at 8:00 pm (and not 12:30 pm) on the polling day.

Recommendation:

14.16 The EAC would continue to listen to the views concerning exit polls and consider the matter when the Guidelines are updated prior to the next general election, along with other electoral arrangements.

Section 4 – Operational Aspects

(A) Tick Chops

14.17 A number of complaints were received from the electors about the excessive ink-flow of some of the tick chops provided by the polling stations for

marking ballot papers, thereby causing the tick marks affixed on the ballot papers to be smeared. Some electors were concerned whether the smeared marks might render the ballot papers invalid. The details of this issue have been covered in paragraphs 10.6 to 10.10 of Chapter 10.

Recommendation:

14.18 The EAC considers it important that all tick chops should be checked more thoroughly to ensure proper functioning before they are dispatched to the polling stations.

(B) Counting Arrangements of Votes for Geographical Constituencies

14.19 For polling-cum-counting stations set up inside schools and post offices, the arrangement was that these venues had to be handed back to the operators by 6:00 am on 8 September 2008. In the event that the counting of GC votes could not be completed by then, a detailed contingency plan had been drawn up for the transport of electoral documents and equipment from the polling stations concerned under Police escort to designated reserve counting stations where the counting process could continue. The venues selected as reserved counting stations had to be close to the original stations to ensure that the counting process could resume without delay. The contingency plans devised had covered every operational detail to ensure the least disruption to the counting process. As the counting process was completed before 6:00 am, the need to invoke the contingency plan did not arise.

Recommendation:

14.20 The EAC noted that the removal arrangements, if required to be implemented, would involve a substantial number of counting stations and would likely prolong the counting process of GC votes and delay the declaration of results. The EAC sees the continued need to devise detailed contingency plans to cater for future elections, so that the relocation arrangements will cause the least impact on the counting process.

(C) Enhanced Cooperation with the Police

14.21 Having regard to the grave concerns expressed by the LegCo members, political parties and the general public on election-related violence and the complaints relating to the conduct of electioneering activities in the 2007 DC Election and 2007 LegCo By-election (Hong Kong Island GC), the Administration was committed to conducting the 2008 LegCo Election in an orderly manner and in accordance with the law. To this end, a Force Working Group on Electioneering Activities (“FWGEA”) comprising representatives from the Police, CMAB, HAD and REO was set up to formulate policing strategy and guidelines for the frontline police officers in dealing with any possible breach of the law and handling complaints. On the basis of the advice and shared experiences from member departments of the Working Group, the Police produced a set of guidelines for their frontline officers. The EAC Chairman conducted a briefing session for senior police officers in the operational field to familiarise them with the relevant provisions in the electoral legislation, so that they could pass the relevant information to the frontline officers.

14.22 To ensure efficient deployment of the police in dealing with election-related violence and serious complaints, the FWGEA also produced plans to enhance all aspects of co-ordination. The EAC Chairman and the Chairman of FWGEA (a directorate officer from the Police) had also met with the representatives from various political parties on two separate occasions before the polling day to receive their views and suggestions on maintenance of public order on the polling day.

Recommendation:

14.23 The EAC considers that the FWGEA had contributed immensely to the generally smooth conduct of the 2008 LegCo Election. Through the efforts of the FWGEA, the co-operation between the PROs and the frontline police officers was greatly enhanced. This was reflected by the fewer number of complaints and reported conflicts in the NCZs on the polling day as compared to the 2007 DC Election. The EAC would recommend that a similar working group should be set up in future general elections.

(D) Size of Ballot Papers

14.24 The ballot papers of the GCs were printed on A-3 size or larger papers. This size has the benefit of allowing photographs of candidates and emblems of their supporting organisations to be printed on the ballot papers for easy identification by the voters. It also allows the use of larger font size. There were contrary views that ballot papers of this size was not environmentally friendly.

Some polling staff indicated that they had difficulties in handling the relatively heavy ballot papers.

Recommendation:

14.25 To reduce paper consumption and to facilitate the delivery of the ballot papers by the polling staff, the EAC is of the view that consideration should be given to reducing the size of ballot papers and using papers with less weight. There were also suggestions from the PROs, the candidates and the public that some information may be excluded from the ballot papers (e.g. photos and emblems of the candidates) as such information was already included in the “Introduction to Candidates” sent to every registered elector. The information may also be displayed in each voting compartment for the reference of the electors when they mark the ballot papers. The EAC considers that the aforesaid options could be further explored.

(E) The Integrated Call Centre

14.26 In order to provide prompt response to the telephone enquiries from members of the public on the polling day and to alleviate the workload of the REO’s Enquiry Hotline Team, the REO had enlisted assistance from the Government’s Integrated Call Centre (“ICC”), a telephone hotline centre responsible for handling public enquiries for a number of government departments which had subscribed to its service. On the polling day, incoming calls that could not be handled immediately by the REO’s Enquiry Hotline were directed to the ICC for immediate response. The ICC and the REO’s Enquiry Hotline Team handled

some 8,000 calls and 34,000 calls from members of the public on the polling day. The ICC had provided valuable assistance in relieving the heavy load on the REO's Enquiry Hotline team on the polling day.

Recommendation:

14.27 Subject to the availability of funding and resources, similar arrangements should be made for major elections in future.

(F) The Fast Response Team

14.28 The FRT was set up to conduct checks on the operation of the polling and counting stations to ensure that proper electoral procedures were followed and to provide prompt advice and on-the-spot assistance to the polling staff. The details of the composition and work of the Team are provided in paragraphs 7.25 to 7.26 of Chapter 7 and paragraph 10.5 of Chapter 10.

Recommendation:

14.29 The EAC considers that the FRT was useful in carrying out audit inspection in polling stations and in offering prompt assistance to polling staff where necessary. It provided strong support to the CCC and proved to be effective in ensuring the smooth conduct of the poll. A FRT should be established in future general elections.

(G) Publicity

14.30 The REO noted from the complaints from past elections that some electors were not very familiar with the voting procedures. For the 2008 LegCo Election, in addition to the usual APIs encouraging nomination of candidates and voter turnout, the REO produced two more APIs which were aimed at reminding electors to follow the correct voting procedures and disabled electors to apply in time for re-allocation to another polling station if the designated station was not accessible to them. The publicity messages launched through television, radio and other channels helped electors understand more about the LegCo Election and their rights and responsibilities, and also contributed to the smooth conduct of the election. The details are provided in paragraph 8.9 of Chapter 8.

Recommendation:

14.31 The EAC recognises the effectiveness of the APIs and considers that similar APIs should be produced in future elections.

(H) Training for Electoral Staff

14.32 A series of training sessions were designed for different ranks of polling and counting staff. To strengthen the quality of management at polling stations, the REO had enlisted the assistance of the CSTDI and management consultants in designing a series of polling management training sessions exclusively for PROs and DPROs. The training materials were designed to enhance electoral staff's understanding of their duties and to familiarise them with the relevant legislation.

The details of the training arrangement are provided in paragraphs 7.5 to 7.8 of Chapter 7.

Recommendation:

14.33 The EAC notes that the featured scenarios in the training video and the “weekly tips” were effective in strengthening the electoral staff’s awareness of their duties and conducive to the smooth conduct of the poll. These training material should be updated regularly to cater for future elections.

(I) Working Hours of Polling Staff

14.34 Some polling staff complained about the long working hours as they had to work continuously for more than 20 hours. Views had also been received from some polling staff that although the counting of GC votes had been completed in the early morning of the following day, they had to wait until the counting had been completed in all the counting stations of the same GC before it could be ascertained whether any re-count was required. The working hours of polling staff at PRO and DPRO levels were even longer, as they had to deliver election documents and equipment to designated storage areas after the counting was completed. The long working hours of the polling staff might have an adverse impact on their performance and cause recruitment difficulties in future elections.

Recommendation:

14.35 To compensate for the long working hours, the EAC adopted a new and more motivating measure for the 2008 LegCo Election by remunerating polling-cum-counting staff who had to work in excess of 18 hours on a pro-rata basis. In view of the concerns raised by some of the polling staff, the EAC considers that the REO should review the remuneration package and explore the possibilities of reducing the working hours of polling-cum-counting staff.

(J) Set up of the REO

14.36 A directorate post of PEO pitched at the rank of Principal Executive Officer was created on a supernumerary basis in the REO in early April 2008 for six months to coordinate the different areas of work in the REO and to liaise with other government departments. The PEO had strengthened the directorate support required by the REO for the preparation of the 2008 LegCo Election and contributed significantly to the smooth conduct of the election.

Recommendation:

14.37 The EAC considers that the post of PEO should be created to cater for future major elections. It is also recommended that the PEO post should be created at the early preparation stage.

14.38 The 2008 LegCo Election revealed that as issues related to elections have become more complicated, apart from the need to re-create the PEO post at

director level in future general elections, the EAC considers that there is a need to strengthen the non-director support in the REO at the level of Deputy Chief Electoral Officers (pitched at the rank of Chief Executive Officer) to undertake various election-related tasks. This is particularly important in the next election cycle as five major elections will be held within the two years between 2011 and 2012, namely the Village Representative Election, DC Election, Election Committee Subsector Elections, CE Election and LegCo Election. The preparation for each of the aforesaid elections will take more than one year. The close intervals between these elections in 2011 and 2012 will no doubt strain the limited manpower resources of the REO. There is a need to strengthen the support at the level of Deputy Chief Electoral Officers in the REO at an early stage to cope with the considerable amount of work required for the preparation of the five major elections mentioned above.

Section 5 – Publication of the Report

14.39 The EAC recommends that this report be made public, at a time the CE thinks appropriate, so that the public may be kept posted as to how the EAC conducted and supervised the 2008 LegCo Election.

PART SIX

CONCLUSION

CHAPTER 15

ACKNOWLEDGEMENT

15.1 The successful conclusion of the 2008 LegCo Election was attributable to the dedicated and concerted efforts of all parties involved.

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

Auxiliary Medical Service

Civil Aid Service

Constitutional and Mainland Affairs Bureau

Department of Justice

Drainage Services Department

Efficiency Unit (of Chief Secretary for Administration's Office)

Electrical and Mechanical Services Department

Food and Environmental Hygiene Department

Government Flying Service

Government Logistics Department

Highways Department

Home Affairs Bureau

Home Affairs Department

Hong Kong Observatory

Hong Kong Police Force

Hongkong Post

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

15.3 The EAC is grateful for the staff of the REO for their contribution at all stages of the 2008 LegCo Election.

15.4 The EAC is also grateful to the officers serving as ROs, the legal practitioners serving on the NACs and those polling and counting staff who conscientiously performed their duties and dutifully followed the relevant operational procedures.

15.5 The EAC would like to thank members of the media who had helped substantially to enhance the transparency of the election by giving the key events a wide and in-depth coverage.

15.6 The EAC shows appreciation towards those candidates, their helpers, building management bodies and members of the general public who complied with the electoral legislation and the Guidelines.

15.7 The EAC is also grateful to the PROs, polling and counting staff who had worked under immense pressure for long hours, but who had persevered and fulfilled their duties.

15.8 The EAC also recognises the enthusiasm of the electors who exercised their civic duties and participated in the poll.

CHAPTER 16

LOOKING FORWARD

16.1 The 2008 LegCo Election held on 7 September 2008 was smoothly concluded in an open, honest and fair manner. The EAC was satisfied with the overall electoral arrangements.

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