

2016 Legislative Council By-election Action Checklist for Candidates

A. Major Steps to be Observed

Before and during
Nomination Period

1. Obtain the following from the Returning Officer (“RO”), any District Office (“DO”) of the Home Affairs Department or the Registration and Electoral Office (“REO”):
 - (a) Nomination Form;
 - (b) Grid paper and Guide on Completion of Grid paper (for inclusion in the official Introduction to Candidates);
 - (c) the form of “Request by a Candidate for a Legislative Council Functional Constituency or a Sole Candidate on a Legislative Council Nomination List or by a Candidate for a District Council Constituency for Printing of Particulars Relating to the Candidate on a Ballot Paper” and/or the form of “Request by Candidates on a Legislative Council Nomination List with More than One Candidate for Printing of Particulars Relating to the Candidates on a Ballot Paper”, as the case may be;
 - (d) the form of “Consent of a Prescribed Body for its Particulars to be Printed on a Ballot Paper in Relation to the Request by Candidate(s)”; and
 - (e) the form of “Intention to Display Election Advertisements at Designated Spots”.

During Nomination
Period

2. Except where the Chief Electoral Officer (“CEO”) authorises otherwise, personally deliver the following to the RO before expiry of the Nomination Period:
 - (a) the duly completed Nomination Form; and
 - (b) an election deposit in cash or by cashier order or cheque made payable to “The Government of the Hong Kong Special Administrative Region”.

In order to avoid the risk of invalidation of the nomination due to dishonoured cheques, candidates are strongly advised to submit the election deposit in cash or cashier order.

3. Obtain from the RO the following:
 - (a) A CD-ROM containing copy of the candidate forms/documents and the relevant legislation;
 - (b) an electoral boundary map of the relevant geographical constituency (“GC”);
 - (c) forms -
 - (i) Return and Declaration of Election Expenses and Election Donations
 - (ii) Standard Receipt for Election Donations
 - (iii) Authorisation to Incur Election Expenses
 - (iv) Notice of Revocation of Authorisation to Incur Election Expenses/Adjustment of Authorised Amount of Election Expenses
 - (v) Notice of Withdrawal of Candidature
 - (vi) Notice of Appointment of Election Agent
 - (vii) Notice of Appointment of Polling Agents for a Polling Station not Situated in a Prison
 - (viii) Notice of Appointment of Polling Agent for a Dedicated Polling Station Situated in a Prison (Other than a Maximum Security Prison)/Application for Consent to the Presence of Election Agent/Polling Agent in a Dedicated Polling Station Situated in a Prison (Other than a Maximum Security Prison)
 - (ix) Notice of Appointment of Counting Agents
 - (x) Notice of Revocation of Appointment of Agent
 - (xi) Information Sheet in relation to Election Advertisements
 - (xii) Application for Creating an Account of the Central Platform and Undertaking in respect of the Terms and Conditions in Using the Central Platform for Candidates
 - (xiii) Notification of the Electronic Address of the Candidate’s Platform

- (xiv) Notification of Corrected Information in relation to Election Advertisements
- (xv) Consent of Support
- (xvi) Permission for Display of Election Advertisements or Conduct of Electioneering Activities at Private Premises
- (xvii) Declaration of Secrecy
- (xviii) Return of Election Deposit
- (xix) Advance Return and Declaration of Election Donations
- (xx) Notice of Posting of Election Mail
- (xxi) Declaration for Posting of Election Mail (Attachment: Summary on Free Postage for Election Mail)
- (xxii) Claim for Financial Assistance (Attachment: Legislative Council Election Financial Assistance Scheme - Notes for Candidate and Independent Auditor of Candidate of Legislative Council Election)
- (xxiii) Notice of Withdrawal of Claim for Financial Assistance
- (xxiv) Notification of Decision on Electioneering Activities
- (xxv) Notification of the Intention to Hold a Public Meeting/Procession; and

(d) Notice for Collection of Electors' Information;

(e) Undertaking on the Use of Elector's Information (Attachment: Supplementary Note on Undertaking on the Use of Elector's Information); and

(f) Note for Submission of a Text Version of Introduction to Candidates for the Visually Impaired

4. Lodge with the RO a Notice of Withdrawal of Candidature if the candidate wishes to withdraw his/her candidature.

Any time before, during or after handing in Nomination Form

5. (a) Ensure that all printed EAs, except for the category exempted, contain the name and address of the printer, date of printing and the number of copies printed.

- (b) Ensure that all prior written Consent of support or Permission/Authorisation have been obtained before the publication of EAs and lodged with the RO, if applicable.
- (c)
 - (i) If the candidates choose to post the electronic copy of EA and relevant information/documents onto the Candidate's Platform for public inspection, candidates should provide to the CEO the electronic address of the platform at least **3 working days before publication of the first EA**.
 - (ii) If the candidates choose to post the electronic copy of EA and relevant information/documents onto the Central Platform for public inspection, candidates should submit to the CEO the "Application for Creating an Account of the Central Platform and Undertaking in respect of the Terms and Conditions in Using the Central Platform for Candidates".

Candidates will receive the username and passwords from CEO within **3 working days** upon receipt of the duly completed application.

- (d) Make available a copy of each type of EAs and relevant information/documents for public inspection **within 1 working day after publication** by:
 - (i) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix E of the "Guidelines on Election-related Activities in respect of the Legislative Council Election" ("Guidelines")**;
 - (ii) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Candidate's Platform and provide the **electronic address** of the platform to the CEO **at least 3 working days before publication of the first EA (For details, please see Appendix E of the Guidelines)**;

- (iii) if it is technically impracticable to comply with (i) or (ii) above for EAs published through an open platform on the internet (such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs etc. and the exchanges are of an interactive and spontaneous nature), posting a hyperlink of such open platform and the information/documents relevant to the EAs onto the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix E of the Guidelines**;
- (iv) providing 2 hard copies each of the EAs (or 2 identical postcard sized colour photographs of each EA which cannot be practically or conveniently photocopied) and 1 hardcopy each of the relevant information/documents to the RO; or
- (v) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and 1 hardcopy each of the relevant information/documents to the RO.

Candidates may make submission as required from time to time.

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| Any time before handing in Nomination Form till the end of election period | 6. Submit to the CEO an Advance Return and Declaration of Election Donations when an election donation is received. |
| Any time after handing in Nomination Form | 7. Lodge with the RO Authorisation to Incur Election Expenses. |
| Any time after handing in Nomination Form, but before expiry of Nomination Period | 8. Lodge with the RO a Notice of Appointment of Election Agent. |
| | 9. (a) If a candidate wishes to have his/her photograph and election platform printed in the Introduction to Candidates, he should : <ul style="list-style-type: none"> (i) lodge with the RO a duly completed grid paper affixing a colour photograph of the candidate which must be in specified size and taken within the last 6 months; and |

- (ii) provide 2 additional copies of his/her photograph identical to the one affixed to the grid paper with his/her name label affixed on the back.

(If a candidate does not submit the grid paper, the Introduction to Candidates will only show the name of the candidate and the list number of the candidate. The statement, “Relevant information has not been provided by the candidate”, will also be printed in the space provided for the election platform.)

- (b) Lodge with the RO an Intention to Display Election Advertisements at Designated Spots.

- (c) If a candidate wishes to have his/her photograph and particulars printed on a ballot paper, he should:

- (i) lodge with the RO a duly completed form of “Request by a Candidate for a Legislative Council Functional Constituency or a Sole Candidate on a Legislative Council Nomination List or by a Candidate for a District Council Constituency for Printing of Particulars Relating to the Candidate on a Ballot Paper”;

- (ii) lodge with the RO a colour photograph of the candidate, in a specified size and taken within the last 6 months, which should be affixed to the form at (c)(i) above, and an additional copy of his/her photograph identical to the one affixed to the form with his/her name label affixed on the back; and

- (iii) lodge with the RO the duly completed form(s) of “Consent of a Prescribed Body for its Particulars to be Printed on a Ballot Paper in Relation to the Request by Candidate(s)”.

(If a candidate does not submit the duly completed form(s) of request and consent, if any, specified above, only his/her name and list number will be printed on a ballot paper.)

Any time after handing in Nomination Form, but not later than 3 weeks before polling day

10. Make a request to the CEO for obtaining, within 5 working days, one set of address labels of electors and/or a DVD containing information of electors in the constituency (Candidates or their election agents are required to submit an Undertaking on the Use of Electors' Information with the request.).

Any time after handing in Nomination Form, but not later than 7 days before polling day

11. Lodge with the CEO Notices of Appointment of Polling Agents for a Polling Station not Situated in a Prison.

12. Lodge with the RO Notices of Appointment of Counting Agents.

13. Lodge with the CEO on a specified form for seeking the consent of the Commissioner of Correctional Services ("CCS") to the presence of an election agent at or the appointment of a polling agent for a dedicated polling station situated in a prison (other than a maximum security prison).

(Note: (a) No consent will be given to the presence of an election agent at a dedicated polling station situated in a prison (other than a maximum security prison) if a polling agent has been appointed for that polling station. On the other hand, if consent has been given by the CCS to the presence of an election agent at a dedicated polling station situated in a prison, no polling agent may be appointed for that polling station.

(b) No polling agent may be appointed nor may election agent be present at a dedicated polling station situated in a maximum security prison.)

Around 3 days after expiry of Nomination Period

14. Attend the briefing for candidates and collect from the RO the following:

(a) location maps and layout plans of the polling/counting stations; and

(b) name badges for candidates and their agents.

15. Attend meetings held by the RO to determine the list numbers by drawing of lots and to allocate display spots for display of EAs.

16. Receive from the RO copy of the permission/authorisation for display of EAs at designated spots allocated to the candidate (except for uncontested candidates who will not be allocated with designated spots).
- Around 7 days after expiry of Nomination Period
17. Check the ballot paper printing proof and verify the particulars relating to the candidate to be printed on the ballot paper. If a candidate or his/her election agent cannot perform the check in person, the candidate may authorise a representative in writing to check the particulars concerned on the ballot paper printing proof on his/her behalf.
- (If a candidate or his/her election agent/authorised representative does not perform the checking at the date and venue specified by the REO, the printing proof of the ballot paper will be printed without further notice.)
- Within 10 days after expiry of Nomination Period
18. Receive from the RO information about the election agents appointed by other candidates of the same constituency.
- After expiry of Nomination Period
19. Receive from the RO the notification on the validity of the candidate's nomination (which will also be sent to every other validly nominated candidate of the same constituency, if any).
- Not later than 7 days before polling day
20. Receive from the RO information regarding the delineation of no canvassing zones and no staying zones for the polling stations (including dedicated polling stations).
- During the week before the polling day
21. Lodge with the CEO on a specified form for seeking the CCS's consent to the presence of an election agent at or the appointment of a polling agent for a dedicated polling station situated in a prison (other than a maximum security prison) ONLY if –
- (a) an elector imprisoned or held in custody who is entitled to vote for the relevant constituency at the aforesaid dedicated polling station situated in a prison is admitted or transferred to the prison during that week; and
- (b) the application is lodged without undue delay after the admission or transfer.

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| 2 clear working days before posting postage-free election mail | 22. Give notice of the free posting of election mail by using the Notice of Posting of Election Mail (in duplicate), and present 3 unsealed election mail specimens to the relevant Manager (Retail Business) of the Hongkong Post for inspection and retention. |
| Make postage-free election mail before the posting deadline as designated by the Post Office | 23. Post postage-free election mail and present to the Post Office a Declaration for Posting of Election Mail (in duplicate). |
| 2 working days after the polling day, the latest | 24. Post the corrected information of the election advertisements concerned onto the Candidate's Platform or Central Platform alongside the original information and input the date of correction; or deposit with the RO a Notification of Corrected Information in relation to Election Advertisements. |
| Before entering the polling station or counting station | 25. Complete the Declarations of Secrecy (to be made by all candidates, their election agents, polling agents and counting agents). |
| Any time before polling day | 26. Lodge with the CEO or RO, as the case may be, Notices of Revocation of Appointment of Agent, if any. |
| On polling day | <p>27. Attend the poll and the count if so wishes, bringing along the Declaration of Secrecy.</p> <p>28. Candidates or their election agents personally deliver Notices of Appointment of Polling Agents for a Polling Station not Situated in a Prison and Notices of Revocation of Appointment of Agent to the relevant Presiding Officer ("PRO") other than a PRO of a dedicated polling station situated in a prison, if not yet lodged pursuant to paras. 11 and 26 respectively.</p> <p>29. Candidates or their election agents personally deliver Notices of Revocation of Appointment of Agent to the CEO to revoke the appointment of polling agent for a dedicated polling station situated in a prison, if not yet lodged pursuant to para. 26.</p> <p>30. Candidates or their election agents personally deliver Notices of Appointment of Counting Agents and Notices of Revocation of Appointment of Agent to the relevant PRO (or to the relevant RO if the counting agents are appointed for the central counting station), if not yet lodged pursuant to paras. 12 and 26 respectively.</p> |

- Within 10 days after polling day
31. Remove all EAs displayed on Government land/property.
- Not later than 60 days of the publication of election result in the Gazette or the declaration of the termination of the election proceedings or the declaration of the failure of the election under relevant electoral law
- (The election result of an uncontested constituency will be gazetted in the Notice of Valid Nominations)
32. (a) Lodge with the CEO a Return and Declaration of Election Expenses and Election Donations signed by the candidate in contested constituency with invoices and receipts issued by recipients of the payments for all payments each of election expense of \$100 or above and duplicate donation receipts.
- (b) A candidate who is returned uncontested should lodge with the CEO a “Return and Declaration of Election Expenses and Election Donations” signed by the candidate with invoice and receipts issued by recipients of the payments for all payments each of election expense of \$100 or above and duplicate donation receipts.
33. (a) Eligible candidates in contested constituency who wish to apply for financial assistance should complete and sign a Claim for Financial Assistance. The completed form, together with the candidate’s Return and Declaration of Election Expenses and Election Donations and an auditor’s report should be presented in person by the candidate or his/her agent to the CEO.
- (b) If a candidate who is returned uncontested wishes to apply for financial assistance, he should complete and sign a Claim for Financial Assistance. The completed form, together with the candidate’s Return and Declaration of Election Expenses and Election Donations and an auditor’s report should be presented in person by the candidate or his/her agent to the CEO not later than 60 days after the gazettal of the Notice of Valid Nominations.
- Till the end of the first anniversary from the date on which the election result is published
34. Candidate to maintain the Candidate’s Platform for public inspection of his/her EAs and relevant information/documents.

Note:

Most of the forms mentioned in this checklist can be downloaded from the REO website at <http://www.reo.gov.hk>.

B. Handling and Declaring Election Expenses

Records Keeping

Before and After Nomination

1. Record all election expenses spent and all election donations received.
2. Keep the invoices and receipts issued by recipients of the payment for expenses of \$100 or above.
3. Issue receipt for any non-anonymous donation of more than \$1,000 and keep a copy of the receipt. [The candidate may use the Standard Receipt for Election Donations provided by the REO.]
4. (a) Keep records of the attachments posted onto the Candidate's Platform and maintain this platform till the end of the first anniversary from the date on which the election result is published; or
(b) Keep records of the attachments posted onto the Central Platform; or
(c) Keep copies of all relevant information/documents and EAs lodged with the RO.

Appointment of Election Agents/Election Expense Agents

5. Each candidate can only appoint 1 election agent by completing a Notice of Appointment of Election Agent. An election agent has the authority to do everything a candidate is authorised to do for the purposes of the election except:
 - (a) anything a candidate is required to do in relation to his/her nomination;
 - (b) to withdraw the candidate's candidature;
 - (c) to incur election expenses unless he/she has been so authorised by the candidate;
 - (d) to authorise a person as an election expense agent to incur election expenses; and
 - (e) to be present in a dedicated polling station situated in a maximum security prison.
6. Each candidate can appoint 1 or more persons authorised to incur election expenses on his/her behalf,

i.e. the election expense agents, by completing the Authorisation to Incur Election Expenses. A candidate **may** also authorise his/her election agent to incur election expenses for him/her. These agents may incur expenses only after the candidate has authorised them to do so.

***Lodging Authorisation
and Information Sheet
of Election***

***Advertisements with the
appropriate authority
and Posting Election
Advertisements on
Central Platform or
Candidate's Platform***

7. Lodge with the RO the Notice of Appointment of Election Agent at any time after handing in Nomination Form.
8. The candidate must serve a notice of the authorisation for person to incur election expenses to the RO. It is important to note that the authorisation is not effective until it has been received by the RO or CEO.
9. Make available a copy of each type of EAs and relevant information/documents for public inspection **within 1 working day** after publication by:
 - (a) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix E of the Guidelines**;
 - (b) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Candidate's Platform and provide the **electronic address** of the platform to the CEO **at least 3 working days before publication of the first EA (For details, please see Appendix E of the Guidelines)**;
 - (c) if it is technically impracticable to comply with (a) or (b) above for EAs published through an open platform on the internet (such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs etc. and the exchanges are of an interactive and spontaneous nature), posting a hyperlink of such open platform on the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix E of the Guidelines**;

- (d) providing 2 hard copies each of the EAs (or 2 identical postcard sized colour photographs of each EA which cannot be practically or conveniently photocopied) and 1 hardcopy each of the relevant information/documents to the RO; or
- (e) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and 1 hardcopy each of the relevant information/documents to the RO.

***Submission of Return
and Declaration of
Election Expenses and
Election Donations***

Not later than 60 days after the publication of election result in the Gazette or the declaration of the termination of the election proceedings or the declaration of the failure of the election under the relevant electoral law

(The election result of an uncontested constituency will be gazetted in the Notice of Valid Nominations)

10. The completed return and a declaration verifying its contents must be submitted together with all supporting documents as required by section 37 of the ECICO. If financial assistance is to be claimed, the return and declaration must be audited by an auditor before submission and the auditor's report must be attached to the submission.
11. The completed return must set out all election expenses incurred by the candidate or by his/her election expense agents on his/her behalf, the cost (if any) incurred by the Government in removing his/her EAs and the election donations (including services and goods) received. ***Candidate is required to submit his/her election return even if no election expenses have been incurred.***
12. A candidate must make the declaration/supplementary declaration(s) verifying the content of the return before a Commissioner for Oaths (at District Offices) or a Justice of the Peace or a solicitor holding a practising certificate.

13. (a) A candidate in a contested constituency must lodge his/her completed return with the CEO not later than 60 days after the publication of election result in the Gazette or the declaration of the termination of the election proceedings or the declaration of the failure of the election under the relevant electoral law.

(b) For a candidate who is returned uncontested, he/she must lodge his/her completed election return with the CEO not later than 60 days after the publication of the Notice of Valid Nominations in the Gazette.
14. If a candidate is unable or has failed to lodge the return by the deadline, he/she can apply to the Court of First Instance for an order allowing him/her to lodge the return within such a further period as specified by the Court of First Instance.
15. If a candidate wishes to change any information in his/her election return, he/she may lodge with the CEO before the deadline a supplementary declaration stating the information to be changed.
16. If a candidate wishes to correct any error or false statement in his/her return (including any document accompanying his/her return) after the deadline, he/she must apply to the Court of First Instance for an order enabling him/her to do so. Notwithstanding this, if the aggregate value of any error or false statement found in the election return does not exceed the prescribed relief arrangement limit for election concerned for purposes of s 37A of the ECICO, the candidate may rectify the error or false statement in the election return in accordance with a simplified relief arrangement for minor errors or false statements as provided under s 37A of the ECICO within a specified period upon receipt of a notice from the CEO relating to the error and/or false statement (see paras. 16.27 to 16.32 of the Guidelines).