

Section 1 – Introduction

Background

1.1 In accordance with section 21 of the Village Representative Election Ordinance, Cap 576 (“VREO”), the Electoral Affairs Commission (“EAC” or “the Commission”) made arrangements for the conduct of the fifth round of village representative by-election on 21 May 2006 to return 7 Village Representatives (“VRs”) for filling 4 Resident Representative (“RR”) and 3 Indigenous Inhabitant Representative (“IIR”) vacancies in 7 villages. The reason for conducting the by-election appear in paragraph 1.3 below.

1.2 The timing of this by-election was scheduled according to a recommendation made by the EAC in its *Report on the Village Representative By-election* held in March 2004. The Commission considered that any VR by-elections conducted thereafter should be held twice a year in April/May and November/December, unless there are special circumstances that warrant a departure from the scheduled time.

The Vacancies

1.3 A total of 7 vacancies comprising 4 RR and 3 IIR seats had arisen in 7 villages after the conclusion of the fourth round of VR by-election in January 2006. These vacancies are classified into two different groups as follows: –

- (a) ***1 vacancy*** – 1 RR vacant seat in Ta Tit Yan Village. The vacancy arose because the elected RR had resigned and the by-election to fill the vacancy held in January 2006 had failed; and

- (b) **6 vacancies** – comprising 3 RR and 3 IIR vacant seats in 6 villages. These vacancies arose because 1 elected RR had resigned from his office after being elected and 5 elected representatives (2 RRs and 3 IIRs) had passed away.

1.4 Three districts of the New Territories were involved in this by-election, namely, Tai Po, Sai Kung and Yuen Long. A list showing details of the vacancies and the dates on which the vacancies were declared in the Gazette notice is at **Appendix I**.

Section 2 – Appointments

Polling Date and Nomination Period

2.1 Pursuant to section 6 of the Electoral Procedure (Village Representative Election) Regulation, Cap 541L, the Director of Home Affairs (“DHA”) published a notice in the Gazette on 7 April 2006, appointing 21 May 2006 as the polling day of the by-election and specifying the period from 13 to 26 April 2006, both dates inclusive, as the nomination period. The by-election aimed at returning candidates to fill 4 RR and 3 IIR vacancies in 7 villages. A breakdown of the number of RRs and IIRs to be returned by district is shown in **Appendix II**.

Appointment of Returning Officers, Assistant Returning Officers and Assistant Returning Officer (Legal)

2.2 In accordance with section 54 of the VREO, the Commission appointed the District Officers (“DOs”) of the three New Territories District Offices concerned as Returning Officers (“ROs”) and 5 members of their staff as Assistant Returning Officers (“AROs”). A Senior Government Counsel was appointed as ARO(Legal). The appointment of ROs was published in the Gazette on 7 April 2006. A list of the ROs and AROs is shown at **Appendix III**.

Briefing for Returning Officers and Assistant Returning Officers

2.3 To enable all parties concerned to be familiarised with the rules and operation of the by-election, the Home Affairs Department (“HAD”) prepared and issued operational manuals to the ROs/AROs as well as the polling and counting staff for reference.

2.4 A briefing for ROs and AROs was held on 4 April 2006 at the Conference Room of the Home Affairs Bureau. The EAC Chairman, accompanied by the Deputy Director of Home Affairs, representatives from the Independent Commission Against Corruption (“ICAC”) and the Chief Electoral Officer of the Registration and Electoral Office (“REO”) briefed those present on the electoral arrangements and reminded them of the salient provisions of electoral legislation and guidelines. The briefing was concluded with a “Questions and Answers” session.

Training Session for Polling and Counting Staff

2.5 Staff of the HAD were deployed as polling and counting staff for the by-election. A training session was organised on 16 May 2006 for the staff who had been engaged to perform polling and counting duties and manning the command centre. It aimed at familiarising the staff concerned with the rules and operational procedures and their respective tasks.

Section 3 – Publicity

3.1 Information on the by-election was published on the websites of the EAC and the HAD throughout the election period for general reference of candidates, electors and the public. Press releases were also issued to publicise the major events of the by-election, eg the nomination period and the polling date. These measures helped to enhance the transparency of and public interest in the by-election.

3.2 Apart from the publicity measures mentioned in paragraph 3.1 above, the HAD had also placed advertisements on local newspapers to invite nominations for the by-election. The efforts were made in response to the EAC's recommendation in its *Report on the January 2006 Village Representative By-election* advising the HAD to strengthen the publicity programme in order to encourage greater participation of the villagers in the VR elections.

Section 4 – Nomination of Candidates

The Nomination Period

4.1 The nomination period started on 13 April and ended on 26 April 2006. Candidates handed in their nomination forms to the relevant RO in person. At the close of nomination, the ROs received a total of 5 nominations.

Validly Nominated Candidates

Validity

4.2 After vetting the nominations, the ROs determined that all the 5 nominations were valid. Of the 5 valid nominations, 2 were for the RR elections, and 3 for the IIR elections.

Uncontested elections

4.3 Having examined the nominations, the ROs declared that 3 candidates were uncontested (2 for the RR elections and 1 for the IIR election), as there was only one validly nominated candidate for each of these villages. The lists of uncontested candidates who were returned in the by-election were published in the Gazette on 4 May 2006 and are shown at **Appendix IV**.

Contested election

4.4 As the number of validly nominated candidates for one Indigenous Village (“IV”) was more than the number of IIR to be returned for this village (two candidates contesting for one seat in the village), a poll was held on 21 May 2006 for this village, namely, the Sha

Lo Tung Cheung Uk IV in the Tai Po district. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 4 May 2006.

Elections that failed

4.5 The ROs also declared that the elections of 2 RR and 1 IIR had failed because there was no validly nominated candidate. The lists of villages where the elections had failed were also published in the Gazette on 4 May 2006 (**Appendix V**).

Information for Candidates

4.6 The candidates of the by-election had been provided with the key information on the electoral legislation and guidelines at the time when they submitted their nomination forms. Therefore they considered it unnecessary to attend the Briefing for Candidates hosted by the HAD.

4.7 Arrangement was made by the RO for drawing of lots, through which the candidates were allocated their candidate numbers and designated spots for displaying their election advertisements.

Section 5 – The Poll

Polling Date and Polling Hours

5.1 The poll was held on Sunday, 21 May 2006 in respect of the IV Sha Lo Tung Cheung Uk, which was the only contested election. The polling hours were from 12 noon to 7 pm in line with the arrangements for the 2003 ordinary elections.

The Contingency Plan

5.2 To cope with any unforeseeable situations in which the poll at the designated polling station could not be proceeded smoothly for one reason or another, eg inclement weather conditions, the HAD had, for the contested village, arranged for an alternative polling station apart from the polling station. The notice of the locations of all polling and counting stations was gazetted by the DHA on 4 May 2006. These venues were also reserved for the same purpose on the fallback date on 28 May 2006, ie the Sunday following the polling day. The arrangements in case of emergencies or inclement weather on the polling day were included in the Operational Manual for ROs and AROs as well as the Operational Manual for Polling and Counting Staff for reference of the officers concerned.

Logistical Arrangements

5.3 On the polling day, the designated polling station was open for operation as scheduled. It was a rainy day but there was no unexpected incident to impede the conduct of the election, and so it was not necessary to open the alternative polling station. A Central Command Centre was set up at the HAD Headquarters at Southorn Centre to oversee the operation of the polling and counting stations as well as the district

command centre and to co-ordinate the communication and dissemination of information for all parties concerned on the polling day.

5.4 In the REO headquarters at Harbour Centre, a complaints centre, manned by the staff of the Complaints Unit of the EAC secretariat, was set up to receive and handle complaints from members of the public throughout the polling hours.

5.5 There were also designated ICAC and Police officers on duty to attend to complaints on the polling day.

Introductory Leaflets and Polling Notices to Electors

5.6 The HAD has produced candidates' introductory leaflets to provide registered electors with information on the relevant personal particulars, election platform and photographs of candidates to enable electors to make an informed choice on the polling day. Introductory leaflets were produced for all the validly nominated candidates, except 3 of them who had not provided information for the production of the leaflets.

5.7 Over ten days before the polling day, a polling notice, together with the relevant candidates' introductory leaflet, was sent to each of the electors concerned, notifying them of the date, time and location of the polling station. Notices were also sent to the electors in cases where the candidate was returned uncontested or where the election had been declared as having failed. In these cases the electors concerned were informed by the notice that they needed not attend the polling station to cast their votes.

5.8 A letter from the DO concerned appealing to electors to cast their votes on the polling day and a pamphlet prepared by the ICAC to promote clean elections were also sent to electors.

Voter Turnout Rates

5.9 The total number of registered electors of the election was 201. Of these, 116 electors (ie about 57.71%) cast their votes on the polling day. A detailed breakdown of the turnout rates by hour is shown in **Appendix VI**.

Section 6 – The Count

Counting Station

6.1 There was one counting station and it was supervised by the RO.

Counting Method

6.2 As there was only one vacancy in the village, manual counting was adopted.

Counting Arrangements

6.3 After the close of the poll, the ballot boxes were transported from the polling station to the counting station for the counting of votes. On the arrival of the ballot boxes at the counting station around 7:30 pm, the RO opened and emptied the ballot boxes for the count to commence.

6.4 The counting tables were appropriately positioned so as to avoid distraction and allegations of vote tinkering. The candidates, their agents and members of the public were able to see the counting process.

6.5 As in the last by-election held in January 2006, identification of questionable ballot papers was made at the same time when the number of ballot papers, as opposed to the number of votes marked on them, was verified against the ballot paper account. This saved one step and reduced the time needed for counting.

6.6 As no questionable ballot paper was identified, and there were also no invalid ballot papers (ie spoilt or unused ones) kept by the

Presiding Officer (“PRO”), counting staff then sorted the ballot papers into different transparent plastic boxes according to the votes marked thereon, before starting to count the number of votes obtained by each candidate.

Declaration of Result

6.7 The election result was declared at the counting station by the RO after the completion of the count at about 8:00 pm. The result of this contested election was promulgated in the Gazette published on 26 May 2006.

6.8 The full lists of successful and unsuccessful candidates including the uncontested villages and those villages where elections were declared as having failed are shown in **Appendices VII(A)-(B)**.

EAC Visits

6.9 The EAC visited the polling station in the afternoon of the polling day, and also observed the count at the counting station. They found the polling and counting arrangements made at the stations generally satisfactory.

6.10 The Deputy Director of Home Affairs also joined the EAC in visiting the polling station and the counting station on the polling day.

Section 7 – The Complaints

Complaints-handling Period

7.1 The complaints-handling period started on 13 April 2006 (ie the commencement of the nomination period) and ended on 5 July 2006 (ie 45 days after the polling day of 21 May 2006).

Complaints-handling Parties

7.2 The parties involved in assisting the EAC to handle complaints included the Complaints Unit of the EAC secretariat, the RO, the Police, the ICAC and, on the polling day, the PRO.

7.3 The Complaints Unit of the EAC secretariat assumed the role of the co-ordinator for collating the complaint-related statistical information from the other parties and compiling a consolidated return for submission to the Commission on a weekly basis during the complaints-handling period.

Number and Nature of Complaints

7.4 One complaint was received by the ICAC during the complaints-handling period, which concerned bribery in relation to voting. No complaint was received on the polling day.

Section 8 – Review and Recommendations

8.1 This was the fifth VR by-election conducted under the supervision of the Commission after the first ordinary election held in 2003. Having carefully reviewed the preparation work for conducting the VR by-election, the EAC is satisfied that the electoral arrangements were generally smoothly conducted and the principle of fairness, openness and honesty had been upheld. The observations and recommendations made by the Commission after reviewing the by-election are set out below in paragraphs 8.2 to 8.5.

Polling and Counting Arrangements

8.2 The Commission noted that in this particular by-election, the counting station was situated on the second floor of a community centre, and the polling station was on the ground floor. The fact that the polling and counting stations were located on different floors of the same building had facilitated efficient completion of the counting process. The counting process for the village started at 7:30 pm, and the election result was declared at about 8:00 pm. It was also noted that the counting station was very spacious and could comfortably accommodate a large number of attendants including the candidates, their supporters and the working staff.

8.3 **Recommendation:** It is recommended that in the selection of venues as polling stations and counting stations in future elections, consideration should be given to adopt similar arrangement of this by-election, ie to identify premises with spacious halls/rooms preferably on the same floor or different floors for use as polling and counting stations. This can reduce the time spent on, and avoid the problems associated with, the transportation of ballot boxes from the polling station

to the counting station, thereby facilitating early commencement and completion of the count.

Publicity Arrangements

8.4 The EAC was pleased to note that as a result of the HAD's additional efforts to enhance the publicity of this by-election by placing advertisements in local newspapers to invite nominations for the by-election, five nominations were received in this by-election, as against 7 vacant seats showing an improvement in the participation rate as compared with the previous rounds of by-elections.

8.5 **Recommendation:** The Commission recommends that the HAD should make continuous efforts to encourage the participation of the villagers in the VR elections through strengthened publicity measures and other appropriate means such as sending staff to visit the villages before the elections.

Section 9 – Acknowledgement

9.1 The Commission wishes to extend its gratitude towards the HAD for conducting the by-election, particularly those serving as RO, AROs, polling and counting officers. The Commission is also thankful to the various government departments for rendering their valuable assistance throughout the by-election, including the REO which was responsible for drafting this report, preparing the EAC visit programme and co-ordinating the handling of complaints for the by-election.

9.2 Last but not least, the Commission would like to express its appreciation to the electors who turned up to cast their votes at the polling station and all those who complied with the electoral legislation and guidelines.

Section 10 – The Way Ahead

10.1 The HAD is planning another by-election in October 2006 to return candidates to fill vacancies which have arisen and may arise subsequent to the VR By-election (May 2006), such as resignation and death of incumbent VRs.

10.2 The Commission would like to recommend that this report be made public, at a time when the Chief Executive thinks fit, to be in line with the long standing practice to uphold the principle of maintaining transparency of elections.