

## **Section 1 – Introduction**

### ***Background***

1.1 In accordance with section 21 of the Village Representative Election Ordinance, Cap 576 (“VREO”), after the ordinary election held in 2007, the Electoral Affairs Commission (“EAC”) made arrangements for the conduct of the second round of village representative by-election on 6 January 2008 to return 7 Village Representatives (“VRs”) for filling 1 Resident Representative (“RR”) and 6 Indigenous Inhabitant Representative (“IIR”) vacancies in 7 villages. The reasons for conducting the by-election are set out in paragraph 1.3 below.

1.2 According to a recommendation made by the EAC in its *Report on the Village Representative By-election* held in March 2004, VR by-elections 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 second round of by-election was originally scheduled for late 2007. However, as the 2007 District Council Election was to be held in November 2007, having regard to manpower constraints and to avoid causing confusion to the public, the second round of VR by-election was deferred to 6 January 2008.

### ***The Vacancies***

1.3 A total of 7 vacancies comprising 1 RR and 6 IIR seats had arisen in 7 villages after the conclusion of the first round of VR by-election in May 2007. These vacancies are classified into three different groups as follows: –

- (a) **2 vacancies** – 2 IIR vacant seats in 2 villages. The vacancies arose because the elected IIRs had resigned;

- (b) *4 vacancies* – comprising 1 RR and 3 IIR vacant seats in 4 villages. These vacancies arose because the elected RR and IIRs had passed away; and
- (c) *1 vacancy* – 1 IIR vacant seat in the San Wai Tsai Village, because the election to fill such a vacancy in the VR by-election held in May 2007 had failed.

1.4 Four districts of the New Territories were involved in this by-election, namely, Kwai Tsing, Sai Kung, Sha Tin and Tai Po. 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 23 November 2007, appointing 6 January 2008 as the polling day of the by-election and specifying the period from 29 November to 12 December 2007, both dates inclusive, as the nomination period. The by-election aimed at returning candidates to fill 1 RR and 6 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 EAC appointed the District Officers (“DOs”) of the four New Territories District Offices concerned as Returning Officers (“ROs”) and 4 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 23 November 2007. A list of the ROs and AROs is shown at **Appendix III**.

### ***Operational Manual for Returning Officers and Assistant Returning Officers***

2.3 As the ROs and AROs were familiar with the electoral arrangements, it was considered unnecessary to conduct a briefing for them. Nevertheless, to enable all parties concerned to be familiarized 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.

### ***Training Session for Polling and Counting Staff***

2.4 Staff of the HAD were deployed as polling and counting staff for the by-election. A training session was organized on 4 January 2008 for the staff who had been engaged to perform polling and counting duties and manning the command centre. It aimed at familiarizing 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 publicize the major events of the by-election, e.g. the nomination period and the polling date. These measures helped 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 Village Representative By-election* held in January 2006 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 29 November and ended on 12 December 2007. Candidates handed in their nomination forms to the relevant RO in person. At the close of nomination, the ROs received a total of 8 nominations.

### *Validly Nominated Candidates*

#### *Validity*

4.2 After vetting the nominations, the ROs determined that all the 8 nominations were valid. Of the 8 valid nominations, 1 was for the RR election, and 7 for the IIR elections.

#### *Uncontested elections*

4.3 Having examined the nominations, the ROs declared that 6 candidates were returned uncontested (1 for the RR election and 5 for the IIR elections), 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 21 December 2007 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 (i.e. two candidates contesting for one seat in the village), a poll was held on 6 January 2008 for this village, namely,

Tung Lo Wan in the Sha Tin District. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 21 December 2007.

### ***Briefing for Candidates***

4.5 One of the candidates of the Tung Lo Wan village (i.e. the only contested village in the by-election) attended the briefing hosted by the EAC Chairman in the Conference Room of the HAD at Southorn Centre, Wan Chai on 15 December 2007. Also present with the EAC Chairman were the Assistant Director of the HAD, representatives of the Independent Commission Against Corruption (“ICAC”), DoJ and the Chief Electoral Officer of the Registration and Electoral Office (“REO”).

4.6 The EAC Chairman briefed the candidate on the major provisions of the electoral legislation and guidelines and on the electoral arrangements. The EAC Chairman also answered the questions raised by the candidate.

4.7 Before the briefing session, lots were drawn for allocation of candidate numbers and designated spots for the candidates to display their election advertisements.

## **Section 5 – The Poll**

### ***Polling Date and Polling Hours***

5.1 The poll was held on Sunday, 6 January 2008 in respect of the IV named Tung Lo Wan, which was the only contested election. The polling hours were from 12 noon to 7 pm in line with the arrangements for the 2007 ordinary election.

### ***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, e.g. inclement weather conditions, the HAD had, for the contested village, arranged for an alternative polling station apart from the polling station. A notice of the locations of all polling and counting stations was gazetted by the DHA on 21 December 2007. These venues were also reserved for the same purpose on the fallback date on 13 January 2008, i.e. 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 fine day and 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 those 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. 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 pamphlet prepared by the ICAC to promote clean elections was also sent to electors.

### ***Voter Turnout Rates***

5.9 The total number of registered electors of the contested village was 97. Of these, 75 electors (i.e. about 77.32%) cast their votes on the polling day. A detailed breakdown of the turnout rates by hour is shown in **Appendix V**.

## **Section 6 – The Count**

### ***Counting Station***

6.1 There was one counting station and it was supervised by the RO. It was situated right next to the polling station in the same premises.

### ***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 7:05 pm, the RO opened and emptied the ballot boxes for the count to commence.

6.4 The candidates, their agents and members of the public were allowed to observe the counting process.

6.5 As in the last by-election held in May 2007, 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 (i.e. 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 7:15 pm. The result of this contested election was promulgated in the Gazette published on 11 January 2008.

6.8 The full lists of successful and unsuccessful candidates including the uncontested villages are shown in **Appendices VI(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 acting 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 29 November 2007 (i.e. the commencement of the nomination period) and ended on 20 February 2008 (i.e. 45 days after the polling day of 6 January 2008).

### ***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 EAC on a weekly basis during the complaints-handling period.

### ***Number and Nature of Complaints***

7.4 By the end of the complaints-handling period, two complaints were received by the RO and the Police, which concerned eligibility of candidature and noise nuisance. No complaint was received on the polling day.

## **Section 8 – Review and Recommendations**

8.1 This was the second VR by-election conducted under the supervision of the EAC after the second ordinary election held in 2007. Having carefully reviewed the preparation work for conducting the VR by-election, the EAC is satisfied that the election was generally smoothly conducted and the principle of fairness, openness and honesty had been upheld. The observations and recommendations made by the EAC after reviewing the by-election are set out below in paragraphs 8.2 to 8.5 below.

### ***Polling and Counting Arrangements***

8.2 The EAC noted that in this particular by-election, the counting station was situated right next to the polling station in the same premises. Although the area was not spacious, the close distance between the polling and counting station facilitated efficient completion of the counting process. The counting process for the village started almost right after the close of poll at 7:05 pm, and the election result was declared shortly afterwards at about 7:15 pm.

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, i.e. to identify premises with suitable areas for use as polling and counting stations in close proximity. 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, 8 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. There was at least one candidate from each village.

8.5 **Recommendation:** The EAC recommends that the HAD should keep up its good work in encouraging the participation of the villagers in the VR elections through strengthened publicity measures and other appropriate means.

## **Section 9 – Acknowledgement**

9.1 The EAC wishes to extend its gratitude towards the HAD for conducting the by-election, particularly those serving as RO, AROs, polling and counting officers. The EAC is 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. The EAC is also grateful to the Police officers who conscientiously performed their duties in maintaining law and order in the by-election.

9.2 Last but not least, the EAC 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 May 2008 to return candidates to fill vacancies which have arisen and may arise subsequent to this VR By-election.

10.2 The EAC would like to recommend that this report be made public, at a time when the Chief Executive thinks fit, to uphold the principle of maintaining transparency of elections.