

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 fifth round of Village Representative By-election on 31 May 2009 to return seven Village Representatives (“VRs”) for filling two Resident Representative (“RR”) and five Indigenous Inhabitant Representative (“IIR”) vacancies in seven Villages. The reason for conducting the By-election is 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. Hence, the EAC arranged for the conduct of the fifth round of VR By-election on 31 May 2009 to return the vacancies which arose subsequent to the previous VR By-election held in November 2008.

The Vacancies

1.3 After the conclusion of the fourth round of VR By-election in November 2008, a total of seven vacancies comprising two RR and five IIR seats had arisen in seven Villages. These vacancies are classified into three different groups as follows: –

- (a) **3 vacancies** – comprising 1 RR and 2 IIR vacant seats in 3 Villages. These vacancies arose because the elected RRs and IIRs had resigned from office after being elected.

- (b) **3 vacancies** – comprising 3 IIR vacant seats in 3 Villages. These vacancies arose because the elected IIRs had passed away.

- (c) **1 vacancy** – comprising 1 RR vacant seat in 1 Village. The vacancy arose because the elected RR was no longer qualified for holding the office as he had moved out of the Village.

1.4 Six Districts of the New Territories, namely Islands, North, Sai Kung, Tai Po, Tuen Mun and Yuen Long, were involved in this By-election. 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 Day and Nomination Period

2.1 Pursuant to section 6 of the Electoral Procedure (Village Representative Election) Regulation, Cap 541L, the Director of Home Affairs published a notice in the Gazette on 17 April 2009, appointing 31 May 2009 as the polling day of the By-election and specifying the period from 23 April to 6 May 2009, both dates inclusive, as the nomination period. The By-election aimed at returning VRs to fill two RR and five IIR vacancies in seven 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 six New Territories District Offices concerned as Returning Officers (“ROs”) and six 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 17 April 2009. 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 familiarised with the rules and operation of the By-election, the Home Affairs Department (“HAD”) prepared and issued operational manuals to the ROs/AROs for reference.

2.4 A briefing for candidates was arranged and scheduled to be held on 8 May 2009 at the HAD Headquarters to brief candidates on the major electoral arrangements and to remind them of the important provisions in the electoral legislation and guidelines.

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, e.g. the nomination period and the polling day. 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 23 April and ended on 6 May 2009. Candidates handed in their nomination forms to the relevant ROs in person. At the close of the nomination period, the ROs received a total of eight nominations and one notification of withdrawal of a nomination.

Validly Nominated Candidates

Validity

4.2 After vetting the remaining seven nominations, the ROs determined that they were all valid. Of the seven valid nominations, two were for the RR elections, and five for the IIR elections.

Uncontested elections

4.3 Having examined the nominations, the ROs found and declared that the seven candidates were uncontested, as there was only one validly nominated candidate for each vacancy. The lists of uncontested candidates who were returned in the By-election were published in the Gazette on 15 May 2009 and are shown at **Appendix IV**.

4.4 As the By-election was uncontested, notices were sent to electors concerned informing them that no poll would be conducted on 31 May 2009.

4.5 The briefing for candidates as mentioned in paragraph 2.4 was cancelled.

Section 5 – The Complaints

Complaints-handling Period

5.1 The complaints-handling period started on 23 April 2009, when the nomination period commenced, and should have ended on 15 July 2009 (i.e. 45 days after the polling day on 31 May 2009). Since the By-election was uncontested and concluded on 6 May 2009, the complaints-handling period was advanced to end on 20 June 2009 (i.e. 45 days after the end date of the nomination period on 6 May 2009).

Complaints-handling Parties

5.2 The parties involved in assisting the EAC to handle complaints included the Complaints Unit of the EAC Secretariat, the ROs concerned, the Police and the ICAC. No complaint was received by any of the aforesaid parties during the complaints-handling period.

Section 6 – Review and Recommendation

6.1 The seven validly nominated candidates were uncontested in this By-election as only one valid nomination was received for each of the seven vacancies. This indicated a possibility that the villagers concerned were less than enthusiastic about competing as candidates for the vacant seats which might stem from the fact that the remaining term would only last for about two years.

6.2 **Recommendation:** The EAC recommends that the HAD should make continuous efforts to encourage the participation of the villagers in the VR elections as candidates through strengthened publicity measures and other appropriate measures.

Section 7 – Acknowledgement

7.1 Although the By-election was uncontested, the EAC wishes to extend its gratitude towards the HAD, particularly those serving as ROs and AROs for their part in validating nominations and in making the necessary preparations for the By-election.

7.2 The EAC is thankful to the the REO which was responsible for drafting this report and co-ordinating the handling of complaints for the By-election.

Section 8 – The Way Ahead

8.1 The HAD is planning another By-election in December 2009 to return VRs to fill vacancies which have arisen and may arise subsequent to this VR By-election.

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