

## **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 seventh round of the Village Representative By-election on 6 June 2010 to return five Village Representatives (“VRs”) for filling two Resident Representative (“RR”) and three Indigenous Inhabitant Representative (“IIR”) vacancies in five 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 sixth round of the VR By-election was re-scheduled for 17 January 2010 so that the updated electoral guidelines, which mainly reflected the legislative amendments providing for electors imprisoned, remanded or detained to vote, could be used in the election. In this connection, this By-election was re-scheduled for 6 June 2010 to allow sufficient time for the preparation work.

### ***The Vacancies***

1.3 After the conclusion of the sixth round of the VR By-election in January 2010, a total of five vacancies comprising two RR and three IIR seats had arisen in five villages. These vacancies are classified into three different groups as follows:

- (a) **2 vacancies** – comprising one RR and one IIR vacant seats in two villages. These vacancies arose because the elected RR and IIR had resigned from their office after being elected;
- (b) **2 vacancies** – comprising two IIR vacant seats in two villages. These vacancies arose because the elected IIRs had passed away; and
- (c) **1 vacancy** – one RR vacant seat in one village. The vacancy arose because the VR by-election held in January 2010 for returning the vacancy had failed.

1.4 Four Districts of the New Territories, namely North, Sai Kung, Tai Po and Tsuen Wan were involved in this By-election. A list showing the 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 (“DHA”) published a notice in the Gazette on 23 April 2010, appointing 6 June 2010 as the polling day of the By-election and specifying the period from 29 April to 12 May 2010, both dates inclusive, as the nomination period. The By-election aimed at returning VRs to fill two RR and three IIR vacancies in five 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, Assistant Returning Officer (Ballot Paper Sorting Station) 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”), four members of their staff as Assistant Returning Officers (“AROs”) and a staff from the Home Affairs Department (“HAD”) as ARO(Ballot Paper Sorting Station) who was the officer-in-charge of the ballot paper sorting station. A Senior Government Counsel was appointed as ARO(Legal). The appointment of ROs was published in the Gazette on 23 April 2010. 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 HAD prepared and issued operational manuals to the ROs/AROs as well as the polling and counting staff for reference.

### **Section 3 – Publicity**

3.1 Information on the By-election was published on the websites of the EAC, the HAD and the ICAC 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 29 April and ended on 12 May 2010. 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 four nominations for IIR elections.

### ***Validly Nominated Candidates***

#### *Validity*

4.2 After vetting the nominations, the ROs determined that all the four nominations were valid.

#### *Uncontested elections*

4.3 Having examined the nominations, the ROs found and declared that two candidates for the IIR elections for Tsam Chuk Wan in Sai Kung and Tai Om in Tai Po were uncontested, as there was only one validly nominated candidate for each vacancy. The names of the uncontested candidates who were returned in the By-election were published in the Gazette on 20 May 2010.

#### *Contested election*

4.4 Two candidates contested for one seat in the IIR election of Chung Kwai Chung in Tsuen Wan District. As the number of validly nominated candidates for the election exceeded the number of IIR to be returned for this village, a poll was held on 6 June 2010. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 20 May 2010.

### *Elections that failed*

4.5 The ROs declared that the RR elections of Ma Tseuk Leng Ha in North District and San Tong in Tai Po District had failed because no candidate was validly nominated. The notice of failure of election for these villages were also published in the Gazette on 20 May 2010.

### *The Briefing for Candidates*

4.6 The briefing for candidates, which was scheduled to be held on 18 May 2010 at the HAD Headquarters in Wan Chai, was cancelled since the two contested candidates were unable to attend.

4.7 Although the candidates' briefing was cancelled, the candidates had been provided with the key information on the electoral legislation and guidelines when they submitted their nomination forms.

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

## **Section 5 – Preparation Work**

### ***Appointment and Training of Polling and Counting Staff***

5.1 Staff of the HAD were deployed as polling and counting staff for the By-election. A training session was organised on 1 June 2010 for the staff who would perform polling and counting duties and manning the command centre on the polling day. It aimed at familiarising the staff concerned with the rules and operational procedures and their respective tasks.

### ***Polling and Counting Stations***

5.2 Chung Kwai Chung Village Office was designated as the polling and counting station.

### ***Dedicated Polling Stations***

5.3 To enable registered electors of the contested villages who might be imprisoned or remanded by the Correctional Services Department (“CSD”) to vote on the polling day, dedicated polling stations (“DPSs”) were planned to be set up in penal institutions in this By-election. The CSD advised the HAD on 5 June 2010 (i.e. the day before the polling day) that no elector was imprisoned or remanded by the CSD. Hence, there was no need to set up DPS in any penal institutions.

5.4 Mei Tin Community Hall in Sha Tin District was designated as the DPS for the registered electors of Chung Kwai Chung, who might be remanded or detained by the law enforcement agencies (“LEAs”) (other than the CSD) on the polling day.

5.5 The notices of the location of the polling stations (including the DPS) and counting station were gazetted by the DHA on 20 May 2010.



### ***Introduction to Candidate and Polling Notices to Electors***

5.6 The HAD had 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.

5.7 A polling notice, together with the Introduction to Candidate, was sent to each of the electors of Chung Kwai Chung, notifying them of the date, time and location of the polling station more than ten days before the polling day. The electors of the uncontested villages and the villages for which the elections had failed were informed that they needed not cast their votes.

5.8 In order to inform persons imprisoned, remanded or detained by the LEAs who might be registered electors of Chung Kwai Chung that the VR By-election would be held on 6 June 2010, polling notices were displayed by the CSD in penal institutions during the period between 25 May and 6 June 2010 and for other LEAs, polling notices were posted on 5 and 6 June 2010.

### ***The Contingency Plan***

5.9 To cope with any unforeseeable situations in which the poll at the designated polling station at Chung Kwai Chung Village Office could not proceed smoothly for one reason or another (e.g. inclement weather conditions), the HAD had kept an alternative polling station in reserve. The notice of the location of the alternative polling station was gazetted by the DHA on 20 May 2010. These venues, together with Mei Tin Community Hall, which was designated as a DPS, were also reserved for the fallback date on 13 June 2010. 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.

## **Section 6 – The Poll**

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

6.1 The poll was held on Sunday, 6 June 2010. The polling hours were from 12:00 noon to 7:00 p.m. in line with the arrangements for the 2007 ordinary VR Election.

### ***Logistical Arrangements***

6.2 The polling station at Chung Kwai Chung Village Office and the DPS at Mei Tin Community Hall were in operation as scheduled on the polling day. A Central Command Centre was set up at the HAD Headquarters 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.

6.3 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.

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

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

6.5 The total number of registered electors of the contested village was 67. Of these, 53 electors (i.e. 79.1%) cast their votes on the polling day. A detailed breakdown of the turnout rates by hour is shown in **Appendix IV**.

## **Section 7 – The Count**

### ***Counting Station***

7.1 After the close of poll, the polling station at Chung kwai Chung Village Office was converted into the counting station for the counting of votes.

### ***Counting Method***

7.2 As there was only one vacancy in Chung Kwai Chung Village, manual counting was adopted.

### ***Counting Arrangements***

7.3 After the close of poll, the Presiding Officer (“PRO”) of the DPS at Mei Tin Community Hall arranged the transportation of the ballot box to the counting station at Chung Kwai Chung Village Office, where it was opened and emptied by the RO.

7.4 The conversion of the polling station at Chung Kwai Chung Village Office into the counting station was completed at around 7:25 p.m. Subsequently, the RO opened and emptied the ballot boxes for the count to commence. There was no vote in the ballot box from the DPS at Mei Tin Community Hall.

7.5 Counting staff at the counting station then sorted the ballot papers into different transparent plastics boxes according to the votes marked thereon. One questionable ballot paper was identified. The RO examined whether the questionable ballot paper should be voided for uncertainty and determined that it should be counted.

### *Declaration of Results*

7.6 The election result of Chung Kwai Chung Village was declared by the RO at about 7:30 p.m. after the completion of count. The result of the contested election was promulgated in the Gazette published on 11 June 2010.

7.7 The full lists of successful and unsuccessful candidates including the uncontested villages are shown in **Appendices V(A)-(B)**.

### *EAC Visits*

7.8 The EAC visited the polling stations on the polling day, and also observed the count at the counting station. They found the polling and counting arrangements generally satisfactory.

7.9 The Assistant Director of Home Affairs(1) also joined the EAC in visiting the polling stations and counting station on the polling day.

## **Section 8 – The Complaints**

### ***Complaints-handling Period***

8.1 The complaints-handling period started on 29 April 2010, when the nomination period commenced, and ended on 21 July 2010 (i.e. 45 days after the polling day on 6 June 2010).

### ***Complaints-handling Parties***

8.2 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 9 – Review and Recommendations

9.1 This was the second round of VR By-election held after the commencement of the operation of the Voting by Imprisoned Persons Ordinance and the related amendment regulations made by the EAC in October 2009. However, same as the previous VR By-election held in January 2010, there was no need to set up any DPS in penal institutions because no person who was imprisoned or remanded by the CSD on the polling day was a registered elector of Chung Kwai Chung Village. Hence, staff of the HAD did not get any opportunity to gain experience in the operations of DPSs in penal institutions.

9.2 **Recommendation:** Given the large number of registered electors who will be eligible to vote in the coming 2011 Village Ordinary Election, it is highly likely that the HAD will have to set up DPSs in penal institutions. By drawing on the Registration and Electoral Office's experience in setting up DPSs in penal institutions in the 2010 Legislative Council By-election held in May 2010, the HAD should liaise closely with the CSD to draw up a detailed plan on the operation of the DPSs in penal institutions and provide sufficient training to the staff concerned so as to ensure the smooth conduct of the 2011 Village Ordinary Election.

9.3 The RR elections for Ma Tseuk Leng Ha and San Tong were failed as there was no candidate validly nominated. This may indicate that villagers concerned were less enthusiastic for the vacant seats with the remaining term of office lasting for about nine months.

9.4 **Recommendation:** The EAC recommends that the HAD should make continuous efforts to encourage villagers in participating in the VR elections through the existing publicity measures and other appropriate means.

## **Section 10 – Acknowledgement**

10.1 The EAC wishes to extend its gratitude towards the HAD, particularly those serving as ROs, AROs, PROs, polling and counting officers for their part in validating nominations and in making the necessary preparations for the By-election. 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 would like to thank the CSD and other LEAs for their assistance provided to the HAD in making necessary arrangements to facilitate registered electors of the contested village who might be imprisoned, remanded or detained on the polling day to vote. The EAC is also grateful to the Police officers who conscientiously performed their duties in maintaining law and order in the By-election.

10.2 The EAC would also 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 11 – The Way Ahead**

11.1 The HAD is planning another By-election in October 2010 to return VRs to fill vacancies which have arisen and may arise subsequent to this VR By-election and the Village Ordinary Election scheduled to be held in January 2011.

11.2 The EAC would 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.