

## **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 2011, the Electoral Affairs Commission (“EAC”) made arrangements for the conduct of the seventh round of Village By-election on 25 May 2014 to return seven Village Representatives (“VRs”) for filling four Resident Representative (“RR”) and three Indigenous Inhabitant Representative (“IIR”) vacancies in seven 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 VR By-election held in March 2004, Village By-elections conducted thereafter should normally be held twice a year in April/May and November/December unless there are special circumstances that warrant a departure from the scheduled time. For the seventh round of Village By-election, the By-election was scheduled for 25 May 2014.

### ***The Vacancies***

1.3 After the conclusion of the sixth round of Village By-election in December 2013, a total of seven VR vacancies including four RR and three IIR seats had arisen in seven villages. These vacancies are classified into two different groups as follows:

- (a) **3 vacancies** – comprising 1 IIR vacant seat in a village and 2 RR vacant seats in 2 villages. These vacancies had arisen

because the elected IIR and RRs had resigned from their office; and

- (b) **4 vacancies** – comprising 2 IIR vacant seats in 2 villages and 2 RR vacant seats in 2 villages. These vacancies had arisen because the elected IIRs and RRs had passed away.

1.4 Four Districts of the New Territories, namely North, Tai Po, Tsuen Wan and Yuen Long, were involved in this By-election. A list showing the details of the vacancies and dates on which the vacancies were declared in the Gazette notices 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 11 April 2014, appointing 25 May 2014 as the polling day of the By-election and specifying the period from 17 April 2014 to 30 April 2014, both days inclusive, as the nomination period. The By-election aimed at returning VRs to fill four RR and three 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, 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 of 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) (“BPSS”) to take charge of the operation of the BPSS<sup>1</sup>. A Government Counsel was appointed as ARO (Legal). The appointment of ROs was published in the Gazette on 11 April 2014. A list of the ROs and AROs is shown at **Appendix III**.

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<sup>1</sup> The ARO (BPSS) was eventually not required to carry out the relevant duties as after the close of nomination, it was clear that setting up of a BPSS was not necessary. Please see paragraph 7.2 below.

*Operational Manual for Returning Officers and Assistant Returning Officers*

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

### **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 also placed advertisements on local newspapers to invite nominations for the By-election. Appeal letters were also issued to electors before the commencement of the nomination period to encourage the registered electors of the villages concerned to participate in the By-election.

## **Section 4 – Nomination of Candidates**

### ***The Nomination Period***

4.1 The nomination period started on 17 April 2014 and ended on 30 April 2014. Candidates handed in their nomination forms to the relevant ROs in person. At the close of the nomination period, the ROs had received a total of eight nominations.

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

#### *Validity*

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

#### *Uncontested elections*

4.3 Having examined the nominations, the ROs declared that two candidates for the IIR elections for Nai Chung in Tai Po District and Shek Wu Tong Tsuen in Yuen Long District and two candidates for the RR elections for Shek Kiu Tau in North District and Sai O in Tai Po District were elected uncontested as there was only one validly nominated candidate for each vacancy. The names of the aforesaid candidates who were returned uncontested in the By-election were published in the Gazette on 9 May 2014.

### *Contested election*

4.4 As the number of validly nominated candidates for an Indigenous Village (i.e. Lo Wai in Tsuen Wan District) and an Existing Village (i.e. Shung Ching San Tsuen (II) in Yuen Long District) exceeded the number of IIR or RR to be returned for the respective villages, a poll was arranged to be held on 25 May 2014 for each of these villages. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 9 May 2014.

### *Election that failed*

4.5 As for Tong Sheung Tsuen in Tai Po District, the RO concerned declared that the RR election had failed because no nomination had been received by the close of the nomination period. The notice of failure of election for this village was also published in the Gazette on 9 May 2014.

### *The Briefing for Candidates*

4.6 As the validly nominated candidates for the two contested elections indicated that they would not attend the briefing session for candidates scheduled for 5 May 2014, the briefing session was cancelled.

4.7 The ROs concerned drew lots to allocate candidate numbers and designated spots for displaying election advertisements to the candidates at their respective offices on 5 May 2014.

## **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 held on 19 May 2014 for the staff who would perform polling and counting duties and man the command centre on the polling day. It aimed at familiarising the staff concerned with the rules, operational procedures and their respective tasks.

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

5.2 The HAD identified two polling-cum-counting stations for the two contested villages in the two respective districts (i.e. Lo Wai in Tsuen Wan District and Shung Ching San Tsuen (II) in Yuen Long District).

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

5.3 To enable registered electors of the contested villages who were imprisoned or remanded by the Correctional Services Department (“CSD”) to cast their votes on the polling day, contingency arrangement was drawn up for the setting up of dedicated polling stations (“DPSs”) in penal institutions for this By-election. As advised by the CSD on 24 May 2014, no registered elector of the contested villages would be imprisoned or remanded under their custody on the polling day. Hence, there was no need to set up a 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 the contested villages who were remanded or detained by law enforcement agencies (“LEAs”) (other than the CSD) on the polling day to cast votes. Since the LEAs might arrest persons who happened to be registered electors of the contested villages at any time on the polling day, the polling hours of this DPS were the same as those of an ordinary polling station, that is, from 12:00 noon to 7:00 p.m.

5.5 A notice of designation of the polling stations (including the DPS) and the counting stations was gazetted by the DHA on 9 May 2014.

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

5.6 The HAD had produced the “Introduction to Candidates” to provide registered electors with information on the relevant personal particulars, election platform and photographs of the validly nominated candidates to enable electors to make an informed choice on the polling day.

5.7 Ten days before the polling day, a polling notice, together with the relevant “Introduction to Candidates” and an ICAC leaflet were sent to each of the electors of the contested villages, notifying them of the polling date, polling hours and location of the polling station. Notices were also sent to the electors of the uncontested villages informing them that no poll would be conducted for their villages on 25 May 2014.

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

5.8 To cope with any unforeseeable situations (e.g. inclement weather conditions, occurrence of public danger, etc.), in which the poll at the designated polling stations could not be carried out as scheduled, the HAD had identified venues for use as alternative polling stations. The designation of these alternative polling stations was also gazetted by the DHA on 9 May 2014. These venues, together with Mei Tin Community Hall, which was designated as a DPS, were also reserved for use on the fallback dates on 27 May 2014 and 1 June 2014. The arrangements in case of emergencies or inclement weather on the polling day were included in the Operational Manual for ROs and AROs and that for Polling and Counting Staff for reference.

## **Section 6 – The Poll**

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

6.1 The poll was held on Sunday, 25 May 2014. According to established arrangement for VR Election, the polling hours for the polling stations at the contested villages and the DPS at Mei Tin Community Hall were from 12:00 noon to 7:00 p.m.

### ***Logistical Arrangements***

6.2 The designated polling stations and the DPS at Mei Tin Community Hall operated 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 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 two contested villages was 543. Of these, 377 were electors of the RR election and 166 were electors of the IIR election. A total of 223 RR electors (i.e. 59.15%) and 59 IIR electors (i.e. 35.54%) cast their votes on the polling day. A detailed breakdown of the turnout rates of both the RR and IIR elections is shown in **Appendix IV**.

## **Section 7 – The Count**

### ***Counting Station and Ballot Paper Sorting Station***

7.1 For each of the contested villages, there was one counting station to be converted from the polling station after the close of the poll for counting of votes. Each counting station was supervised by the RO concerned.

7.2 After the close of nomination, it was noted that polling was required for only two contested villages involving 543 electors. As the expected number of ballot papers to be cast at the DPS would be very small and that the ballot papers cast could be efficiently delivered to the respective counting stations directly, the HAD decided that it was not necessary to set up a BPSS to sort the ballot papers cast at the DPS before sending them to the respective counting stations for counting.

7.3 After the close of poll, the Presiding Officer (“PRO”) of the DPS at Mei Tin Community Hall sealed the ballot boxes for the respective villages in the presence of a police officer. The PRO and the Deputy Presiding Officer, under the escort of the Police, delivered the sealed ballot boxes to the respective counting stations.

### ***Counting Method***

7.4 Manual counting was adopted in the By-election.

### ***Counting Arrangements***

7.5 After the close of poll, both the two polling stations (except for the DPS) were converted into counting stations. The conversion was completed at around 7:20 p.m. for Lo Wai and 7:25 p.m. for Shung Ching San Tsuen (II). No vote was cast in the DPS at Mei Tin Community Hall. The empty ballot boxes thereat were delivered to the two counting stations for opening. For Shung Ching San Tsuen (II), the first ballot box opened thereat was jointly emptied by Mr Justice Fung, the EAC Chairman, and the concerned RO. The ROs of respective counting stations opened all the ballot boxes including the empty ballot box for DPS at Mei Tin Community Hall and verified the ballot paper account of the DPS. The count then commenced immediately.

7.6 Counting staff then sorted the ballot papers into different transparent plastic boxes according to the votes marked thereon, before starting the count of the number of votes obtained by each candidate. There was one invalid ballot paper identified at the counting station for Lo Wai. For Shung Ching San Tsuen (II), two ballot papers were determined as invalid as they were unmarked and five ballot papers were identified as questionable. Four of these questionable ballot papers were determined as valid by the RO concerned. The remaining one was determined as invalid as it had not marked with the chop provided at the polling station. All the invalid ballot papers were not counted.

### ***Declaration of Result***

7.7 The election results were declared at each counting station by the respective ROs after the completion of the count at around 7:30 p.m.

for Lo Wai and 8:10 p.m. for Shung Ching San Tsuen (II). The results of these contested elections were promulgated in the Gazette notices published on 30 May 2014.

7.8 The lists of successful and unsuccessful candidates (including those uncontested) are shown in **Appendices V(A) - (B)**.

### ***EAC Visits***

7.9 Mr Justice Fung, the EAC Chairman and Mr Lawrence Lok, EAC Member, conducted visits to the polling stations at Vichy Educational & Cultural Organisation Jade Kindergarten and Lo Wai Village Office respectively. They also observed the count at the aforesaid venues separately after the polling stations were converted into counting stations. They found the polling and counting arrangements generally satisfactory.

7.10 Ms Leona Law, Assistant Director of Home Affairs (1) also joined Mr Justice Fung in visiting the polling/counting station at Vichy Educational & Cultural Organisation Jade Kindergarten.

## **Section 8 – The Complaints**

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

8.1 The complaints-handling period started on 17 April 2014, when the nomination period commenced, and ended on 9 July 2014 (i.e. 45 days after the polling day on 25 May 2014).

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

8.2 The parties involved in handling complaints relating to the By-election included the EAC, the ROs, the Police and the ICAC. The EAC, supported by the EAC Secretariat, would deal with cases that were within its jurisdiction and not covered by any statutory provisions involving criminal sanction.

8.3 The EAC Secretariat assumed the role of 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***

8.4 By the end of the complaints-handling period, no complaint had been received by any of the complaints-handling parties.



## **Section 9 – Review and Recommendation**

9.1 The EAC reviewed the electoral procedures and arrangements made for the By-election and considered the overall polling and counting arrangement smooth and satisfactory.

9.2 For the conduct of the rural ordinary election to be held in early 2015, a number of counting stations would need to be set up in the New Territories Districts. Due to the difference in the number of candidates to be returned in different IIR elections and the introduction of Kaifong Representative elections, the counting process would be more complicated than that of a village by-election. The EAC recommends that in order to ensure the procedural integrity and consistency in the counting process among the various counting stations, the HAD should draw up a comprehensive operation manual with detailed guidelines for the counting staff to follow.

## **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 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, the Police and other LEAs for their assistance provided to the HAD in making necessary arrangements for the operation of the DPSs. 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 stations and all those who complied with the electoral legislation and guidelines.

## **Section 11 – The Way Ahead**

11.1 The HAD is planning another round of By-election in October 2014 to return VRs to fill vacancies which have arisen and may arise subsequent to this By-election.

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 transparency.

