

Section 1 - Introduction

Background

1.1 In accordance with section 21 of the Rural Representative Election Ordinance, Cap 576 (“RREO”), after the ordinary election held in 2015, the Electoral Affairs Commission (“EAC”) made arrangements for the conduct of the third round of Rural By-election on 29 May 2016 to return 6 Rural Representatives (“RRs”) for filling 2 Resident Representative (“ReRs”) and 4 Indigenous Inhabitant Representative (“IIRs”) vacancies in six 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, by-elections should normally be conducted twice a year in April/May and November/December unless there are special circumstances that warrant a departure from the scheduled time. In accordance with the established practice, the EAC arranged for a Rural By-election on 29 May 2016.

The Vacancies

1.3 After the conclusion of the last Rural By-election held on 6 December 2015, a total of 6 RR vacancies including 2 ReR and 4 IIR seats have arisen in 2 Existing Villages (“EVs”) and 4 Indigenous Villages (“IVs”) respectively. These vacancies are classified into 2 different groups as follows:

- (a) **1 vacancy** for an IIR vacant seat in an IV arose because the elected IIR had resigned from the office; and

- (b) **5 vacancies** comprising 2 ReR vacant seats in 2 EVs and 3 IIR vacant seats in 3 IVs. These vacancies arose because the elected ReRs and IIRs had passed away.

1.4 Four Districts of the New Territories, namely North, Tai Po, Tsuen Wan and Tuen Mun 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 (Rural Representative Election) Regulation, Cap 541L, the Acting Director of Home Affairs published a notice in the Gazette on 8 April 2016, appointing 29 May 2016 as the polling day of the By-election and specifying the period from 20 April 2016 to 3 May 2016, both days inclusive, as the nomination period. The By-election was held to return 2 ReRs and 4 IIRs to fill the vacancies in 2 EVs and 4 IVs respectively. A breakdown of the number of ReRs and IIRs to be returned by District is shown at **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 RREO, the EAC appointed the District Officers of the 4 New Territories districts concerned as the Returning Officers (“ROs”), 4 members of their staff as the Assistant ROs (“AROs”) and a staff from the Home Affairs Department Headquarters (“HAD HQ”) as the ARO (Ballot Paper Sorting Station) (“BPSS”) to take charge of the operation of the BPSS. An acting Senior Assistant Solicitor General was appointed as the ARO (Legal). The appointment of ROs was published in the Gazette on 8 April 2016. A list of the ROs and AROs is shown at **Appendix III**.

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, HAD prepared and issued operational manuals to the ROs/AROs as well as the polling and counting staff for reference. As, by virtue of their previous experience and work knowledge, 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, HAD and the Independent Commission Against Corruption (“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, 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 20 April 2016 and ended on 3 May 2016. Candidates were required to hand in their nomination forms to the relevant ROs in person. At the close of the nomination period, the ROs had received a total of 7 nominations.

Validly Nominated Candidates

Validity

4.2 After vetting the nominations, the relevant ROs determined that all the 7 nominations (2 for the ReR elections and 5 for the IIR elections) were valid.

Uncontested elections

4.3 Having examined the nominations, the ROs declared that a candidate for the ReR election for Ha Shan Kai Wat, Ta Kwu Ling in the North District, a candidate for the ReR election for Tsing Chuen Wai in the Tuen Mun District, a candidate for the IIR election for Chung Kwai Chung in the Tsuen Wan District and a candidate for the IIR election for Lung Kwu Tan in the Tuen Mun 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 13 May 2016.

Contested election

4.4 As the number of validly nominated candidates for Shuen Wan Lei Uk, an IV in the Tai Po District, exceeded the number of IIR to be returned for the village, a poll was arranged to be held on 29 May 2016 for the village. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 13 May 2016.

Election that failed

4.5 As for the IIR vacancy in Sha Lo Tung Lei Uk in the Tai Po District, the RO concerned declared that the IIR election had failed due to no nominations received by the close of the nomination period. The notice of failure of election for this village was also published in the Gazette on 13 May 2016.

The Briefing for Candidates

4.6 For the contested election, all the validly nominated candidates indicated that they would not attend the briefing session. So, the briefing session scheduled for 6 May 2016 was cancelled.

4.7 The RO concerned drew lots at the Conference Room of Tai Po District Office to allocate candidate numbers and designated spots for displaying election advertisements to the candidates on 6 May 2016.

Section 5 – Preparation Work

Appointment and Training of Polling and Counting Staff

5.1 Staff of HAD were deployed as polling and counting staff for the By-election. A training session was held on 24 May 2016 for the staff who would perform polling and counting duties and operate 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 HAD identified the Shuen Wan Chim Uk Village Office as the polling-cum-counting station for the IIR election for Shuen Wan Lei Uk in the Tai Po District.

Dedicated Polling Stations

5.3 To enable registered electors of Shuen Wan Lei Uk who were imprisoned or remanded by the Correctional Services Department (“CSD”) to cast their votes on the polling day, dedicated polling stations (“DPSs”) would be set up in penal institutions for this By-election as needed. As advised by CSD on 28 May 2016, no registered electors of Shuen Wan Lei Uk would be in 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 the Sha Tin District was designated as the DPS for registered electors of the contested village who were remanded or detained by law enforcement agencies (“LEAs”) (other than CSD) on the polling day to cast votes. Since the LEAs might arrest

persons who happened to be registered electors of the contested village 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 DPSs) and the counting station was gazetted by the Director of Home Affairs (“DHA”) on 13 May 2016.

Introduction to Candidates and Polling Notices to Electors

5.6 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 On 16 May 2016, a polling notice, together with the relevant “Introduction to Candidates” leaflet, voting guide, location map of polling station and an ICAC leaflet, were sent to each of the electors of the contested village, notifying them of the polling date, polling hours and location of the polling station. A notice was also sent to each of the electors of the uncontested villages informing them that no poll would be conducted for their villages.

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 station could not be carried out as scheduled, HAD had identified a venue for use as the alternative polling station. The designation of the alternative polling station was also gazetted by the DHA on 13 May 2016. The designated polling station, together with Mei Tin Community Hall, which was designated as a DPS, were also reserved for use on the fallback day on 5 June 2016. 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, 29 May 2016. According to the established arrangement for the RR election, the polling hours for the polling station at the Shuen Wan Chim Uk Village Office 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 station and the DPS at Mei Tin Community Hall operated as scheduled on the polling day. A Central Command Centre was set up at HAD HQ 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 office of the EAC Secretariat at Harbour Centre, a Complaints Centre 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 IIR election of Shuen Wan Lei Uk was 80. A total of 55 IIR electors (i.e. 68.75%) cast their votes on the polling day. A detailed breakdown of the turnout rates of the IIR election is shown at **Appendix IV**.

Section 7 – The Count

Counting Station and Ballot Paper Sorting Station

7.1 The polling station at Shuen Wan Chim Uk Village Office was converted into counting station for counting of votes after the close of the poll. The counting station was supervised by the RO concerned.

7.2 To enhance the efficiency of counting, HAD made special arrangements in respect of the delivery of ballot papers for the DPS at Mei Tin Community Hall as follows:

- (a) if no electors were to cast vote in the DPS at Mei Tin Community Hall, the ballot box would be delivered to the BPSS. The ARO(BPSS) would open the empty ballot box from the DPS and inform the RO of the result and that no ballot paper would be delivered to the counting station; or
- (b) if elector(s) did cast vote(s) in the DPS at Mei Tin Community Hall, the ballot box would be delivered direct to the counting station for counting of votes.

Counting Method

7.3 Manual counting was adopted in the By-election. Ballot papers were separated with reference to the candidate for whom the vote had been recorded and placed into the relevant box, and then the valid ballot papers were counted.

Counting Arrangements

7.4 After the close of poll, the polling station at Shuen Wan Chim Uk Village Office was converted into a counting station. The conversion was completed at around 7:15 p.m. No votes were cast in the DPS at Mei Tin Community Hall. In accordance with the special arrangements stated in para. 7.2 above, the ARO (BPSS), after opening the ballot box from the DPS and confirming that no votes are therein, informed the RO concerned of the result and that no ballot papers would be delivered to the counting station. This enabled the RO to immediately commence the counting process. The ballot box opened thereat was jointly emptied by Mr Arthur Luk, EAC Member, and the concerned RO. The count then commenced immediately.

7.5 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 were no invalid or questionable ballot papers identified during the sorting process.

Declaration of Result

7.6 The election result was declared at the counting station by the RO concerned after the completion of the count at 7:33 p.m. The result of the contested election was promulgated in the Gazette notice published on 3 June 2016.

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

EAC Visits

7.8 Mr Arthur Luk, EAC Member conducted a visit to the polling station at Shuen Wan Chim Uk Village Office. He also observed the count at the same venue after the polling station was converted into a counting station. He considered the polling and counting arrangements generally satisfactory.

Section 8 – The Complaints

Complaints-handling Period

8.1 The complaints-handling period started on 20 April 2016 (i.e. commencement of the nomination period) and ended on 13 July 2016 (i.e. 45 days after the polling day on 29 May 2016).

Complaints-handling Parties

8.2 The parties involved in the handling of complaints relating to the By-election included the EAC, the ROs, Police and 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, one complaint about bribery in relation to voting had been received by the ICAC, which was still under investigation. No complaints had been received by the other complaints-handling parties.

Section 9 – Review and Recommendation

9.1 After reviewing the electoral procedures and arrangements made for the By-election, the EAC considered that the polling and counting was conducted smoothly and satisfactorily.

9.2 During the process of sorting of ballot papers at the counting station, the “✓” sign on some of the ballot papers was found much thicker and looked blurry. The reason for the thicker “✓” could probably be the result of the excessive force used by electors in affixing the chop on the ballot papers. Since the RO was satisfied that the “✓” sign in these ballot papers was marked with the chops provided by the polling station and was marked in the circle opposite to the name of candidate of the choice of the elector, these ballot papers were treated as valid. Although no candidates have raised any queries or complaints about the validity of these ballot papers, the EAC advises that the design and quality of the “✓” chops should be reviewed. When placing order for new “✓” chops in the next election, the HAD should set high standards or specifications for aspects such as ink type, the thickness and the absorbency of ballot paper in order to control the quality of ink and enhance the efficacy and performance of the chops.

Section 10 – Acknowledgement

10.1 The EAC wishes to extend its gratitude to HAD, particularly those serving as ROs, AROs, Presiding Officer, 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 Registration and Electoral Office 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 CSD, Police and other LEAs for their assistance provided to 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 station and all those who complied with the electoral legislations and guidelines.

Section 11 – The Way Ahead

11.1 HAD is planning the conduct of another round of by-election in November 2016 to fill RR vacancies that 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.