

ELECTORAL AFFAIRS COMMISSION

REPORT ON THE RURAL BY-ELECTION

(November 2016)

Submitted to

**the Honourable C Y Leung
the Chief Executive of the Hong Kong Special Administrative Region
of the People's Republic of China**

24 February 2017

選舉管理委員會

ELECTORAL AFFAIRS COMMISSION

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24 February 2017

The Honourable C Y Leung, GBM, GBS, JP
The Chief Executive
Hong Kong Special Administrative Region
People's Republic of China
Chief Executive's Office
Hong Kong

Dear Mr Leung,

Pursuant to section 8(1) of the Electoral Affairs Commission Ordinance, we have the pleasure in submitting to you the enclosed report on the Rural By-election (November 2016).

Yours sincerely,



Barnabas Wah FUNG, Chairman



Arthur Yee-shun LUK, Member



Fanny Mui-ching CHEUNG, Member

ABBREVIATIONS

ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
BPSS	Ballot Paper Sorting Station
CSD	Correctional Services Department
DoJ	Department of Justice
DHA	Director of Home Affairs
DPS, DPSs	dedicated polling station, dedicated polling stations
EAC	Electoral Affairs Commission
EV, EVs	Existing Village, Existing Villages
HAD	Home Affairs Department
HQs	Headquarters
ICAC	Independent Commission Against Corruption
IIR, IIRs	Indigenous Inhabitant Representative, Indigenous Inhabitant Representatives
IV, IVs	Indigenous Village, Indigenous Villages
LEAs	law enforcement agencies
ReR, ReRs	Resident Representative, Resident Representatives
REO	Registration and Electoral Office
RO, ROs	Returning Officer, Returning Officers

RR, RRs

Rural Representative,
Rural Representatives

RREO

Rural Representative Election Ordinance
(Cap. 576)

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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 fourth round of Rural By-election on 27 November 2016 to return eight Rural Representatives (“RRs”) for filling four Resident Representative (“ReR”) and four 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 Village Representative¹ 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 27 November 2016.

The Vacancies

1.3 After the conclusion of the last Rural By-election held on 29 May 2016, a total of eight RR vacancies, comprising four ReR and four IIR seats, arose in four Existing Villages (“EVs”) and four Indigenous Villages (“IVs”) respectively. These vacancies are classified into four different groups as follows:

¹ Rural Representative Election covers election of village representatives and kaifong representatives upon the enactment of the RREO in 2014.

- (a) **one vacancy** for a ReR vacant seat in one EV arose because the elected ReR had resigned from the office;
- (b) **five vacancies**, comprising two ReR vacant seats in two EVs and three IIR vacant seats in three IVs, arose because the elected ReRs and IIRs had passed away;
- (c) **one vacancy** for an IIR vacant seat in one IV arose because no one sought candidature for this seat in the third round of Rural By-election held on 29 May 2016; and
- (d) **one vacancy** for a ReR vacant seat in one EV arose because the representative was disqualified from holding office.

1.4 Four Districts, namely Islands, Sai Kung, Tai Po 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 (Rural Representative Election) Regulation (Cap. 541L), the Director of Home Affairs (“DHA”) published a notice in the Gazette on 7 October 2016, appointing 27 November 2016 as the polling day of the By-election and specifying the period from 20 October 2016 to 2 November 2016, both days inclusive, as the nomination period. The By-election was held to return four ReRs and four IIRs to fill the vacancies in four EVs and four 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 and Assistant District Officers of the four District Offices concerned as the Returning Officers (“ROs”), six members of their staff as the Assistant Returning Officers (“AROs”) and a staff from the Home Affairs Department Headquarters (“HAD HQs”) as the ARO (Ballot Paper Sorting Station) (“BPSS”) to take charge of the operation of the BPSS. An acting Senior Government Counsel was appointed as the ARO (Legal). The appointment of ROs was published in the Gazette on 7 October 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 and 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 October 2016 and ended on 2 November 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 ten nominations.

Validly Nominated Candidates

Validity

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

Uncontested elections

4.3 Having examined the nominations, the ROs declared that a candidate each for the ReR and IIR elections for Shek Lau Po in the Islands District, a candidate for the ReR election for Mau Wu Tsai in the Sai Kung District, a candidate for the ReR election for Sha Kong Wai and a candidate for the IIR election for Fan Tin San Yi Cho in the Yuen Long District and a candidate for the IIR election for Cheung Muk Tau in the 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 11 November 2016.

Contested elections

4.4 As the number of validly nominated candidates for Tai O Market Street, an EV in the Islands District, and Sha Lo Tung Lei Uk, an IV in the Tai Po District, exceeded the number of ReR and IIR to be returned for the respective villages, a poll was arranged to be held on 27 November 2016 for each of these villages. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 11 November 2016.

The Briefing for Candidates

4.5 The EAC Chairman conducted a briefing session on the major provisions of the electoral legislation and guidelines on the electoral arrangements on 7 November 2016 at the Conference Room of the HAD HQs in Wan Chai. Also present with the EAC Chairman were the Assistant Director of the HAD, representatives of the ICAC, the Department of Justice (“DoJ”) and the Registration and Electoral Office (“REO”).

4.6 While the RO for Tai O Market Street drew lots on 4 November 2016 at the Conference Room of Islands District Office to allocate candidate numbers and designated spots for displaying election advertisements to the candidates, the RO for Sha Lo Tung Lei Uk drew lots at the Conference Room of the HAD HQs after the Briefing for Candidates on 7 November 2016.

Section 5 – Preparatory 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 23 November 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 CCC Tai O Primary School as the polling-cum-counting station for the ReR election for Tai O Market Street in the Islands District and the Tai Wo Neighbourhood Community Centre as the polling-cum-counting station for the IIR election for Sha Lo Tung Lei Uk in the Tai Po 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, dedicated polling stations (“DPSs”) would be set up in penal institutions for this By-election as needed. As advised by CSD on 26 November 2016, no registered electors of Tai O Market Street or Sha Lo Tung Lei Uk would be in their custody on the polling day. Hence, there was no need to set up 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 villages 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 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 pm.

5.5 A notice of designation of the polling stations (including the DPSs) and the counting stations was gazetted by the DHA on 11 November 2016.

Introduction to Candidates and Polling Notices to Electors

5.6 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 14 November 2016, a polling notice, together with the relevant “Introduction to Candidates”, voting guide, location map of polling station and an ICAC leaflet, was sent to each of the electors of the contested villages, 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 identified venues for use as the alternative polling stations. The designation of the alternative polling stations was also gazetted by the DHA on 11 November 2016. The designated polling stations, together with the Mei Tin Community Hall, which was designated as a DPS, were also reserved for use on the fallback day on 4 December 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, 27 November 2016. According to the established arrangement for the RR election, the polling hours for the polling stations at the contested villages and the DPS at the Mei Tin Community Hall were from 12:00 noon to 7:00 pm.

Logistical Arrangements

6.2 The designated polling stations and the DPS at the Mei Tin Community Hall operated as scheduled on the polling day. A Central Command Centre was set up at HAD HQs 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 the 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 the two contested villages was 173. Of these, 24 were electors of ReR election for Tai O Market Street and 149 were electors of IIR election for Sha Lo Tung Lei Uk. A total of 18 ReR electors (i.e. 75%) and 41 IIR electors (i.e.

27.52%) cast their votes on the polling day. A breakdown of the turnout rates is shown at **Appendix IV**.

Section 7 – The Count

Counting Stations and Ballot Paper Sorting Station

7.1 Both polling stations at the CCC Tai O Primary School and the Tai Wo Neighbourhood Community Centre were converted into counting stations for counting of votes after the close of the poll. The counting stations were supervised by the ROs 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 the Mei Tin Community Hall as follows:

- (a) if no electors were to cast vote in the DPS at the 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 ROs of the result and that no ballot papers would be delivered to the counting stations; or
- (b) if elector(s) did cast vote(s) in the DPS at the Mei Tin Community Hall, the ballot box would be delivered direct to the counting station(s) 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 was recorded and placed into the relevant box, and then the valid ballot papers were counted.

Counting Arrangements

7.4 After the close of poll, all polling stations (except for the DPS) were converted into counting stations. The conversion was completed at 7:26 pm for Tai O Market Street and at 7:20 pm for Sha Lo Tung Lei Uk. No votes were cast in the DPS at the Mei Tin Community Hall. In accordance with the special arrangements stated in paragraph 7.2 above, the ARO (BPSS), after opening the ballot box from the DPS and confirming that no votes were therein, informed the ROs of the result and that no ballot papers would be delivered to the counting stations. This enabled the ROs to immediately commence the counting process. The ballot box opened at the counting station for Sha Lo Tung Lei Uk was jointly emptied by Professor Fanny Cheung, 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 was one questionable ballot paper identified during the sorting process at the counting station for Sha Lo Tung Lei Uk, which was then determined by the RO as valid. No invalid ballot papers were identified in both counting stations.

Declaration of Result

7.6 The election results of both contested villages were declared at each counting station by the respective ROs after the completion of the count at around 7:40 pm. The results of these contested elections were promulgated in the Gazette notices on 2 December 2016.

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

EAC Visit

7.8 Professor Fanny Cheung, EAC Member conducted a visit to the polling station at the Tai Wo Neighbourhood Community Centre. She also observed the count at the same venue after the polling station was converted into a counting station. She considered the polling and counting arrangements generally satisfactory.

Section 8 – The Complaints

Complaints-handling Period

8.1 The complaints-handling period started on 20 October 2016 (i.e. commencement of the nomination period) and ended on 11 January 2017 (i.e. 45 days after the polling day on 27 November 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 on 11 January 2017, one complaint about bribery in relation to voting was received by the ICAC and one complaint was received by the RO of Tai Po District against the staff of her office. No further action was required for the case handled by the ICAC and the case handled by RO was found unsubstantiated. Other complaints-handling parties did not receive any complaints.

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 Two polling stations were set up for this By-election, one at the CCC Tai O Primary School and the other at the Tai Wo Neighbourhood Community Centre. Both of them were easily accessible. In addition, the polling station at the Tai Wo Neighbourhood Community Centre has ample space for setting up the polling station with a reserved area where the counting zone could be set up at the same time before the polling day. This could not only facilitate a smooth flow of electors inside the polling station during polling hours, but also save much time used for conversion of the polling station after the close of poll and allow the count to start promptly. The EAC recommends that HAD should continue to identify similar spacious and accessible venues for use as polling stations in future elections.

9.3 In the report on the last Rural By-election held in May 2016, the EAC recommended that the design and quality of the “✓” chops should be reviewed as the “✓” sign on some of the ballot papers was found much thicker and blurry. In response to the EAC’s recommendation, HAD placed order for new “✓” chops with higher standards and specifications and replaced the old ones in this By-election. The efficacy and performance of the new chops was found satisfactory.

Section 10 – Acknowledgement

10.1 The EAC wishes to extend its gratitude to HAD, particularly those staff serving as ROs, AROs, Presiding Officers, polling and counting staff 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 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 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 stations 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 April 2017 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.

APPENDICES

**Rural By-election (November 2016)
Details of Vacancies**

Causes of Vacancy		District	Rural Committee	Name of Village	Type of Rural Representative	Date of Gazettal of Vacancy
(A)	By-election held on 29 May 2016 failed*	Tai Po	Tai Po	Sha Lo Tung Lei Uk	IIR	29.01.2016
(B)	Disqualified	Islands	Tai O	Tai O Market Street	ReR	17.06.2016
(C)	Deceased	Yuen Long	San Tin	Fan Tin San Yi Cho	IIR	30.06.2016
		Islands	Tung Chung	Shek Lau Po	IIR	15.07.2016
		Sai Kung	Hang Hau	Mau Wu Tsai	ReR	15.07.2016
		Tai Po	Sai Kung North	Cheung Muk Tau	IIR	05.08.2016
		Yuen Long	Ping Shan	Sha Kong Wai	ReR	05.08.2016
(D)	Resigned	Islands	Tung Chung	Shek Lau Po	ReR	09.09.2016

*The By-election held on 29 May 2016 for filling an IIR vacancy in Sha Lo Tung Lei Uk (as the elected IIR had passed away) failed because no nomination was received.

Note:

IIR : Indigenous Inhabitant Representative

ReR : Resident Representative

Rural By-election (November 2016)
Breakdown of Number of Rural Representatives to be Returned
(By District)

District	No. of Indigenous Inhabitant Representatives (“IIRs”)	No. of Resident Representatives (“ReRs”)	Total no. of IIRs and ReRs
Islands	1	2	3
Sai Kung	0	1	1
Tai Po	2	0	2
Yuen Long	1	1	2
Total	4	4	8

**Rural By-election (November 2016)
Appointment of Returning Officers and
Assistant Returning Officers**

The following officers were appointed as Returning Officers, Assistant Returning Officers, Assistant Returning Officer (Ballot Paper Sorting Station) and Assistant Returning Officer (Legal) of the captioned By-election:

(I) Returning Officers

<u>Name</u>	<u>Post</u>
Mr LI Ping-wai, Anthony	District Officer (Islands)
Ms LUI Siu-chu, Andy	District Officer (Tai Po)
Mr MAK Chun-yu, Edward	District Officer (Yuen Long)
Miss CHONG Yan-yee, Belinda	Assistant District Officer (Islands)1
Mr KWOK Chung-kai, Peter	Assistant District Officer (Sai Kung)1
Ms LEE Kai-ying, Iris	Assistant District Officer (Tai Po)

(II) Assistant Returning Officers

<u>Name</u>	<u>Post</u>
Ms HUI Yuen-mei, May	Senior Liaison Officer (1) (Islands)
Ms CHAN Hing-kwan, Patty	Senior Liaison Officer (2) (Islands)
Miss MAK Wai-man, Sandy	Senior Liaison Officer (1) (Sai Kung)
Mr CHAN Hoi-ming, Peter	Senior Liaison Officer (1) (Tai Po)
Mr CHAN Yiu-kwok	Senior Liaison Officer (2) (Tai Po)
Mr CHAN Hon-kwan, Harris	Senior Liaison Officer (Rural) (Yuen Long)

(III) Assistant Returning Officer (Ballot Paper Sorting Station)

<u>Name</u>	<u>Post</u>
Mr MOK Sui-hung	Senior Liaison Officer (1) 2, Home Affairs Department

(IV) Assistant Returning Officer (Legal)

<u>Name</u>	<u>Post</u>
Mr LEUNG Man-fung, Ivan	Acting Senior Government Counsel, Department of Justice

**Rural By-election (November 2016)
Voter Turnout Rates**

Resident Representative Election

District	Name of Rural Committee	Name of Village	No. of Registered Electors	Cumulative Turnout (actual no. of electors) Cumulative Turnout Rate (%)			
				1:00 pm	3:00 pm	5:00 pm	7:00 pm
Islands	Tai O	Tai O Market Street	24	5 20.83%	8 33.33%	12 50.00%	18 75.00%

Indigenous Inhabitant Representative Election

District	Name of Rural Committee	Name of Village	No. of Registered Electors	Cumulative Turnout (actual no. of electors) Cumulative Turnout Rate (%)			
				1:00 pm	3:00 pm	5:00 pm	7:00 pm
Tai Po	Tai Po	Sha Lo Tung Lei Uk	149	17 11.41%	29 19.46%	39 26.17%	41 27.52%

Rural By-election (November 2016)
Results for Resident Representative Elections

District / Rural Committee	Name of Village	Candidate No. and Name of Candidate	Votes Received	Result of Election	
Islands					
Tai O	Tai O Market Street	1	HO, KAM FUK	10	Elected
		2	CHEUNG, WAI LEUNG	8	
Tung Chung	Shek Lau Po	LAW, CHIN KUEN RANDY	—	Uncontested	
Sai Kung					
Hang Hau	Mau Wu Tsai	NG, CHEUK WING	—	Uncontested	
Yuen Long					
Ping Shan	Sha Kong Wai	MOK, TIM FUK	—	Uncontested	

Rural By-election (November 2016)
Results for Indigenous Inhabitant Representative Elections

District / Rural Committee	Name of Village	Candidate No. and Name of Candidate	Votes Received	Result of Election	
Islands					
Tung Chung	Shek Lau Po	LAW, LAI CHI	—	Uncontested	
Tai Po					
Tai Po	Sha Lo Tung Lei Uk	1	LI, HON MAN KENNY	23	Elected
		2	LEE, CHE WAN	18	
Sai Kung North	Cheung Muk Tau	HAU, LAP KWONG	—	Uncontested	
Yuen Long					
San Tin	Fan Tin San Yi Cho	MAN, SHING LAP	—	Uncontested	