

ELECTORAL AFFAIRS COMMISSION

**REPORT ON THE
RURAL BY-ELECTION**

(May 2018)

Submitted to

**the Honourable Mrs Carrie Lam Cheng Yuet-ngor
the Chief Executive of the Hong Kong Special Administrative Region
of the People's Republic of China**

17 August 2018

選舉管理委員會

ELECTORAL AFFAIRS COMMISSION

香港灣仔港灣道 25 號
海港中心 10 樓

10/F, Harbour Centre
25 Harbour Road
Wan Chai
Hong Kong

本函檔號 OUR REF.: REO CR/14/12/RB-18

圖文傳真 Fax: 2507 5810

來函檔號 YOUR REF.:

電話 Tel.: 2827 1419

網址 Web Site: <http://www.eac.gov.hk>

17 August 2018

The Honourable Mrs Carrie Lam Cheng Yuet-ngor, GBM, GBS
The Chief Executive
Hong Kong Special Administrative Region
People's Republic of China
Chief Executive's Office
Hong Kong

Dear Madam,

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 (May 2018).

Yours faithfully,



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
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
PROs	Presiding Officers
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)

CONTENTS

		<u>Page</u>
Section 1	Introduction	1
Section 2	Appointments	3
Section 3	Publicity	5
Section 4	Nomination of Candidates	6
Section 5	Preparatory Work	8
Section 6	The Poll	11
Section 7	The Count	12
Section 8	The Complaints	15
Section 9	Review and Recommendation	16
Section 10	Acknowledgement	18
Section 11	The Way Ahead	19
<u>Appendices</u>		
Appendix I	Details of Vacancies	21
Appendix II	Breakdown of Number of Rural Representatives to be Returned (By District)	22
Appendix III	Appointment of Returning Officers and Assistant Returning Officers	23
Appendix IV	Voter Turnout rates	24
Appendix V(A)	Results for Resident Representative Elections	25
Appendix V(B)	Results for Indigenous Inhabitant Representative Elections	26

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 seventh round of Rural By-election on 20 May 2018 to return seven Rural Representatives (“RRs”) for filling Resident Representative (“ReR”) vacancies and Indigenous Inhabitant Representative (“IIR”) vacancies in seven villages.

1.2 The Rural By-elections should normally be conducted twice a year. In accordance with the established practice, the EAC arranged for a Rural By-election on 20 May 2018. The reasons for conducting the By-election are set out in paragraph 1.3 below.

The Vacancies

1.3 After the conclusion of the sixth round of Rural By-election in December 2017, a total of seven RR vacancies, comprising five ReR seats arose in five Existing Villages (“EVs”) and two IIR seats in two Indigenous Villages (“IVs”) respectively. These vacancies are classified into three different groups as follows:

- (a) **two vacancies** comprising a ReR vacant seat in one EV and an IIR vacant seat in one IV arose because the elected ReR and IIR had resigned from their office;
- (b) **four vacancies** comprising three ReR vacant seats in three EVs and an IIR vacant seat in one IV arose because

the elected ReRs and IIRs had passed away; and

- (c) **one** ReR vacant seat in one EV arose because no one sought candidature for the seat in the sixth round of Rural by-election held on 10 December 2017.

1.4 Four Districts, namely Sai Kung, Islands, Sha Tin and North, 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 29 March 2018, appointing 20 May 2018 as the polling day of the By-election and specifying the period from 12 April 2018 to 25 April 2018, both days inclusive, as the nomination period. The By-election was held to return five ReRs and two IIRs to fill the vacancies in five EVs and two 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 three District Officers and three 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. A Government Counsel was also appointed as the ARO (Legal). The appointment of ROs was published in the Gazette on 29 March 2018. 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 by the EAC Chairman 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 members of the public. Press releases were also issued to publicise the major events of the By-election such as 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 12 April 2018 and ended on 25 April 2018. 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 seven nominations.

Validly Nominated Candidates

Validity

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

Uncontested elections

4.3 Having examined the nominations, the ROs declared that a candidate each for the ReR election for Au Ha and Tsung Pak Long in the North District, a candidate for the ReR election for Tung Lo Wan and a candidate for the IIR election for San Tin, both in the Sha Tin District and a candidate for the IIR election for Pui O Lo Uk Tsuen in the Islands District were elected uncontested as there was only one validly nominated candidate for each vacancy. There were in total five candidates returned uncontested in the By-election and their names were published in the Gazette on 4 May 2018.

Contested election

4.4 As the number of validly nominated candidates for Kat Hing Street, an EV in the Islands District exceeded the number of ReR to be returned for the village, a poll was arranged to be held on 20 May 2018 for the village. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 4 May 2018.

Election that failed

4.5 As for the ReR vacancy for Main Street (East) in the Sai Kung District, the RO concerned declared that the ReR election had failed as no nomination was received by the close of the nomination period. The notice of failure of election for this village was also published in the Gazette on 4 May 2018.

The Briefing for Candidates

4.6 For the contested election mentioned in paragraph 4.4 above, all the validly nominated candidates indicated that they would not attend the briefing session. So, the briefing session for candidates originally scheduled for 2 May 2018 was cancelled.

4.7 The RO for Kat Hing Street drew lots to allocate candidate numbers and designated spots for displaying election advertisements to the candidates at the Islands District Office on 27 April 2018.

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 16 May 2018 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 Station

5.2 HAD identified the CCC Tai O Primary School as the polling-cum-counting station for the ReR election for Kat Hing Street in the Islands District.

Dedicated Polling Station

5.3 To enable registered electors of the contested village 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 the penal institutions for this By-election as needed. As advised by CSD on 18 May 2018, no registered elector of Kat Hing Street 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 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 for this DPS were the same as those of an ordinary polling station, i.e. from 12:00 noon to 7:00 pm.

5.5 A notice of designation of the polling station, DPSs, BPSS and counting station was gazetted by the DHA on 4 May 2018.

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 8 May 2018, a polling notice, together with the relevant “Introduction to Candidates”, 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 stations could not be conducted as scheduled, HAD identified venues for use as the alternative polling station. The designation of the alternative polling station was also gazetted by the DHA on 4 May 2018. The designated polling station, together with the Mei Tin Community Hall, which was designated as a DPS, were also

reserved for use on the fallback day on 27 May 2018. 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, 20 May 2018. According to the established arrangement for the RR election, the polling hours for the polling station at the contested village 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 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 HQs to oversee the operation of the polling and counting stations as well as the District Command Centre 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 Kat Hing Street was 63. A total of 47 ReR electors (i.e. 74.60%) cast their votes on the polling day. A breakdown of the turnout rates is shown at **Appendix IV**.

Section 7 – The Count

Counting Station and Ballot Paper Sorting Station

7.1 The polling station at the CCC Tai O Primary School 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 the Mei Tin Community Hall as follows:

- (a) if no elector was 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 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 the 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 was recorded and placed into the relevant transparent plastic box, and then the valid ballot papers were counted.

Counting Arrangements

7.4 After the close of poll, the polling station at the CCC Tai O Primary School was converted into counting station. The conversion was completed at 7:12 pm. In accordance with the special arrangements stated in paragraph 7.2 above, since no vote was cast in the DPS at the Mei Tin Community Hall, the ARO(BPSS), after opening the ballot box from the DPS and confirming that no ballot paper was therein, informed the RO concerned of the result and that no ballot paper would be delivered from Mei Tin Community Hall to the counting station. The ballot box of the polling station opened thereat was jointly emptied by Mr Justice Fung, the EAC Chairman and the RO concerned. 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 no invalid or questionable ballot paper 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 7:25 pm. The result of the contested election was promulgated in the Gazette notice on 25 May 2018.

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 Justice Fung, the EAC Chairman visited the polling station at the CCC Tai O Primary School. 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 12 April 2018 (i.e. commencement of the nomination period), and ended on 4 July 2018 (i.e. 45 days after the polling day on 20 May 2018).

Complaints-handling Parties

8.2 The parties involved in the handling of complaints relating to the By-election included the EAC, the ROs, Police, ICAC and, on the polling day, the Presiding Officers (“PROs”) as well. 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 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 4 July 2018, no complaint had been received by any of the complaints-handling parties.

Section 9 – Review and Recommendation

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

9.2 To ensure that the concerned electors of the ReR election for Kat Hing Street would understand the law requirements, HAD displayed at each ballot paper issuing desk in the polling station a white cardboard notice for showing to each elector a reminding message that if any registered elector, even though he/she is an indigenous inhabitant or his/her spouse, no longer resides in the Village for which he/she is registered, or his/her residential address in the Village is no longer his/her sole or main home, he/she is no longer eligible to remain registered as an elector. It is an offence if he/she votes in an election.

9.3 The EAC is aware of the current practice to display the white cardboard notices in the polling station but considers that HAD should use a more attractive means, such as a well-designed poster to get electors' attention to the message that voting right in the ReR election is restricted to eligible electors having continued residence within the same registered Village. In response to the EAC's comments, HAD has designed a purpose-made poster to replace the white cardboard notice with the reminding message highlighting that a registered elector for an EV is no longer eligible to vote in the ReR election of the Village if he/she has already moved away from that Village. Even though the elector is an indigenous inhabitant or the spouse and a registered elector for the IIR election for the IV of the same name, he/she is not eligible to vote in the ReR election, and will commit an offence if so to vote. Apart from the ballot paper issuing desks, the posters will also be displayed at prominent locations inside the polling stations. The new posters will be displayed starting from the coming Rural By-election to be held in

October 2018. Similar arrangement will also be adopted for the Kaifong Representative election which is also bound by the residence requirement.

Section 10 – Acknowledgement

10.1 The EAC wishes to extend its gratitude to HAD, particularly those serving as ROs, AROs, PROs, polling and counting staff for their part in validating nominations, making the necessary preparations for the By-election and conducting the poll and count on the polling day. The EAC is thankful to the various government departments for rendering valuable assistance throughout the By-election, including the 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 October 2018 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 (May 2018)
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 10 December 2017 failed*	Sai Kung	Sai Kung	Main Street (East)	ReR	02.06.2017
(B)	Resigned	Islands	South Lantao	Pui O Lo Uk Tsuen	IIR	06.10.2017
		Islands	Tai O	Kat Hing Street	ReR	20.10.2017
(C)	Deceased	Sha Tin	Sha Tin	San Tin	IIR	22.12.2017
		Sha Tin	Sha Tin	Tung Lo Wan	ReR	29.12.2017
		North	Sha Tau Kok District	Au Ha	ReR	19.01.2018
		North	Sheung Shui District	Tsung Pak Long	ReR	09.02.2018

* The By-election held on 10 December 2017 for filling a ReR vacancy in Main Street (East) (as the elected ReR had resigned) failed because no nomination was received.

Note:

ReR: Resident Representative

IIR: Indigenous Inhabitant Representative

Rural By-election (May 2018)
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
Sai Kung	0	1	1
Islands	1	1	2
Sha Tin	1	1	2
North	0	2	2
Total	2	5	7

**Rural By-election (May 2018)
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)
Mr CHONG Wing-wun	District Officer (North)
Miss CHAN Yuen-man, Amy	District Officer (Sha Tin)
Mr AU Sheung-man, Benjamin	Assistant District Officer (Islands)1
Ms KWONG Ting-lok, Maggie	Assistant District Officer (North)1
Mr KWOK Chung-kai, Peter	Assistant District Officer (Sai Kung)1

(II) Assistant Returning Officers

<u>Name</u>	<u>Post</u>
Mr FONG Kai-kit, Frankie	Senior Liaison Officer (1) (Islands)
Ms CHAN Hing-kwan, Patty	Senior Liaison Officer (2) (Islands)
Miss HUI Pui-man, Sophia	Assistant District Officer (North)2
Ms IP Yuk-mei, Eunice	Senior Liaison Officer (1) (North)
Miss MAK Wai-man, Sandy	Senior Liaison Officer (1) (Sai Kung)
Ms LEUNG Wai-shan, Cecilia	Senior Liaison Officer (West) (Sha Tin)

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

<u>Name</u>	<u>Post</u>
Ms LIU Pui-shan, Lis	Senior Liaison Officer (1) 4, Home Affairs Department

(IV) Assistant Returning Officer (Legal)

<u>Name</u>	<u>Post</u>
Mr KWONG Yu-hang, Elvin	Government Counsel, Department of Justice

**Rural By-election (May 2018)
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	Kat Hing Street	63	13 20.63%	27 42.86%	43 68.25%	47 74.60%

**Rural By-election (May 2018)
Results for Resident Representative Elections**

District / Rural Committee	Name of Village	Candidate No. and Name of Candidate		Votes Received	Result of Election
Sai Kung					
Sai Kung	Main Street (East)	—		—	Election failed
Islands					
Tai O	Kat Hing Street	1	KWOK, KAM YING	38	Elected
		2	CHIU, SIN FAI	9	
Sha Tin					
Sha Tin	Tung Lo Wan	YAU, KWAI WING		—	Uncontested
North					
Sha Tau Kok	Au Ha	NGAI, CHING YING		—	Uncontested
Sheung Shui	Tsung Pak Long	LAU, KUN WAI		—	Uncontested

Rural By-election (May 2018)
Results for Indigenous Inhabitant Representative Elections

District / Rural Committee	Name of Village	Candidate No. and Name of Candidate	Votes Received	Result of Election
Islands				
South Lantao	Pui O Lo Uk Tsuen	TSE, CHUN ON	—	Uncontested
Sha Tin				
Sha Tin	San Tin	LAU, SZE CHUN	—	Uncontested