

Section 1 – Introduction

Background

1.1 The 2019 Rural Ordinary Election (“ROE”) was held on 3 consecutive Sundays from 6 to 20 January 2019 with a view to returning 1 540 Rural Representatives (“RRs”) for 709 villages in the New Territories and 2 Market Towns. A total of 1 434 RRs (including contested and uncontested elections) were returned in that Election. The elections for the remaining 106 RR seats (including 95 Resident Representatives (“ReRs”) and 11 Indigenous Inhabitant Representatives (“IIRs”)) in 95 Existing Villages (“EVs”) and 10 Indigenous Villages (“IVs”) had failed due to either an absence of validly nominated candidate or insufficient number of registered electors to serve as subscribers. Hence, the Returning Officers (“ROs”) concerned declared the failure of the elections for these villages in the Gazette published on 6 December 2018 in accordance with section 29(2) of the Rural Representative Election Ordinance (Cap. 576) (“RREO”).

1.2 Separately, before the RRs of the new term take office on 1 April 2019, an elected IIR candidate in an IV passed away, and 2 elected ReR candidates resigned from the office of ReR in 2 EVs. Pursuant to section 12 of the RREO, the Director of Home Affairs (“DHA”) declared the existence of these vacancies in the Gazette published on 22 March, and 4 April and 12 April 2019 respectively.

The Vacancies

1.3 As mentioned in paragraphs 1.1 and 1.2 above, 106 RR vacancies arose in the 2019 ROE because the elections for some villages had failed. Thereafter, an elected IIR candidate passed away and 2 elected ReR candidates resigned, therefore increasing the number of RR

vacancies to a total of 109, involving 97 ReR vacancies in 97 EVs and 12 IIR vacancies in 11 IVs respectively. These vacancies fall into 4 different groups as follows:

- (a) **25 vacancies** – comprising 18 ReR vacancies in 18 EVs and 7 IIR vacancies in 7 IVs. These vacancies arose because there was no validly nominated candidate in the 2019 ROE (please see paragraph 1.1 above);
- (b) **2 vacancies** – comprising 2 ReR vacancies in 2 EVs. These vacancies arose because the elected ReR candidates had resigned from their offices (please see paragraph 1.2 above);
- (c) **1 vacancy** – an IIR vacancy in an IV arose because the elected IIR candidate had passed away (please see paragraph 1.2 above); and
- (d) **81 vacancies** – comprising 77 ReR vacancies in 77 EVs and 4 IIR vacancies in 3 IVs. These vacancies arose because the total number of registered electors of the villages concerned was less than 6 (the requisite number of subscribers for a nomination is 5 registered electors of the village concerned but the subscriber must be an elector other than the candidate himself/herself) (please see paragraph 1.1 above).

1.4 In accordance with section 21 of the RREO, the Electoral Affairs Commission (“EAC”) made arrangements for the conduct of a by-election to return RRs to fill the above vacancies. With the agreement of the EAC, the Home Affairs Department (“HAD”), which is responsible for the conduct of RR elections, decided that the first round of Rural By-election in 2019 should be held to fill the 28 vacancies (including 20 ReR and 8 IIR vacancies) as mentioned in paragraph 1.3 (a)

to (c) above in the first instance. For those villages without sufficient number of registered electors, a second round of By-election would be held in December 2019 to fill the vacancies set out in paragraph 1.3 (d) above if the villages concerned have sufficient number of electors for subscribing candidate(s) after the completion of the 2019 voter registration exercise in October 2019.

1.5 The Rural 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. As the HAD was heavily engaged in other rural elections (i.e. the Rural Committee (“RC”) Elections and the Heung Yee Kuk (“HYK”) Elections) in the first half of 2019, conducting the by-election in April/May 2019 was not recommended. Therefore, the first round of by-election was scheduled to be conducted on 16 June 2019.

1.6 Five Districts, namely Islands, North, Sai Kung, Tai Po and Tsuen Wan 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 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 DHA published a notice in the Gazette on 18 April 2019, appointing 16 June 2019 as the polling day of the By-election and specifying the period from 30 April 2019 to 14 May 2019, both days inclusive, as the nomination period. The By-election was held to return 20 ReRs to fill the vacancies in 20 EVs and 8 IIRs to fill the vacancies in 8 IVs. 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 5 District Officers and an Assistant District Officer of the 5 District Offices concerned as the ROs, 8 members of their staff as the Assistant Returning Officers (“AROs”), and a staff member from the HAD Headquarters (“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 18 April 2019. 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 themselves with the rules and operation of the By-election, the 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 therefore considered unnecessary to conduct a briefing by the EAC Chairman for them.

Section 3 – Publicity

3.1 Information on the By-election was uploaded onto the websites of the EAC, the 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 major issues of the By-election such as the nomination period, the names of the validly nominated candidates, the polling arrangement and the setting up of dedicated polling stations (“DPSs”). 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 in local newspapers and put up banners and displayed posters at the villages concerned to invite nominations for the By-election. Appeal letters were also issued to registered electors of the villages concerned before the commencement of the nomination period to encourage active participation in the By-election.

Section 4 – Nomination of Candidates

The Nomination Period

4.1 The nomination period started on 30 April 2019 and ended on 14 May 2019. Candidates were required to hand in their nomination forms to the relevant ROs in person. At the close of the nomination, the ROs had received a total of 6 nominations.

Validly Nominated Candidates

Validity

4.2 After vetting the nominations, the relevant ROs determined that all the 6 nominations (3 for the ReR election and 3 for the IIR elections) were valid.

Uncontested elections

4.3 Having examined the relevant nominations, the ROs declared that a candidate each for the ReR election for Kam Shan Village and Shuen Wan Chan Uk respectively in the Tai Po District, a candidate for the ReR election for Wo Yi Hop in the Tsuen Wan District and a candidate for the IIR election for Kau Liu Ha in the Tai Po District were elected uncontested as there was only one validly nominated candidate for each vacancy. There were in total 4 candidates returned uncontested in the By-election and their names were published in the Gazette on 24 May 2019.

Contested election

4.4 As the number of validly nominated candidates for Ma Wat Tsuen (an IV in the North District) exceeded the number of IIR to be returned for the village, a poll was arranged to be held on 16 June 2019 for the village. The names and relevant particulars of the validly nominated candidates were published in the Gazette on 24 May 2019.

Election that failed

4.5 Regarding the remaining 17 ReR vacancies in 17 EVs and 6 IIR vacancies in 6 IVs, the ROs concerned declared that the ReR and IIR elections had failed because no nomination was received by the close of the nomination. The notice of failure of election for these villages was also published in the Gazette on 24 May 2019.

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. The briefing session for candidates originally scheduled for 17 May 2019 was therefore cancelled.

4.7 On 15 May 2019, the RO for Ma Wat Tsuen drew lots to allocate candidate numbers and designated spots for displaying election advertisements to the candidates at the North District Office.

Section 5 – Preparatory 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 12 June 2019 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 The HAD identified the Lung Shan School as the polling-cum-counting station for the IIR election for Ma Wat Tsuen in the North 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, DPSs would be set up in penal institutions for the By-election where necessary. As advised by the CSD on 15 June 2019, no registered elector of Ma Wat Tsuen 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 a DPS for registered electors of the contested village who were remanded or detained on the polling day by law enforcement agencies (“LEAs”) (other than CSD) 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 24 May 2019.

Introduction to Candidates and Polling Notices to Electors

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

5.7 On 31 May 2019, the 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.) which would render the poll unable to be conducted at the designated polling station as scheduled, the HAD identified a venue as the alternative polling station. The designation of the alternative polling station was gazetted by the DHA on 24 May 2019. The designated polling station and the DPS at the Mei Tin Community Hall were also reserved for use on the fallback

day of 23 June 2019. 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, 16 June 2019. 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 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 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 number of registered electors of Ma Wat Tsuen in respect of the IIR election was 164. A total of 53 IIR electors (i.e. 32.32%) 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 Lung Shan 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, the 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, 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 sorted with reference to the candidate for whom the vote was recorded and placed into the relevant transparent plastic boxes, and then the valid ballot papers were counted.

Counting Arrangements

7.4 The conversion of the polling station at the Lung Shan School into counting station was completed at 7:30 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, immediately informed the RO concerned of the result and confirmed that no ballot paper would be delivered from the Mei Tin Community Hall to the counting station. At the counting station, the ballot box opened thereat was jointly emptied by Mr Justice Fung, the EAC Chairman, Professor Fanny Cheung, EAC Member and the RO concerned. The count then commenced immediately.

7.5 Counting staff sorted the ballot papers into the relevant transparent plastic boxes according to the votes marked thereon, and then started 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 after the completion of the count at 7:45 pm. The result of the contested election was published in the Gazette on 21 June 2019.

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

EAC Visits

7.8 Mr Justice Fung, the EAC Chairman and Professor Fanny Cheung, EAC Member visited the polling station at the Lung Shan School. They also observed the count at the same venue after the polling station was converted into counting station. They considered the polling and counting arrangements generally satisfactory.

Section 8 – The Complaints

Complaints-handling Period

8.1 The complaints-handling period started on 30 April 2019 (i.e. commencement of the nomination period), and ended on 31 July 2019 (i.e. 45 days after the polling day on 16 June 2019).

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 as well as the Presiding Officers (“PROs”) on the polling day. 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 31 July 2019, 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 this By-election, the EAC considers that the polling and counting was conducted smoothly and satisfactorily.

9.2 This By-election involved a total of 28 RR vacancies, comprising 20 ReR seats in 20 EVs and 8 IIR seats in 8 IVs respectively. At the close of nomination, there were 17 EVs and 6 IVs for which elections had failed because of no validly nominated candidate.

9.3 The EAC notes that the HAD had publicised this Rural By-election through different channels, including placing advertisements in several local newspapers, putting up banners and displaying posters in the Rural Areas concerned, and sending letters to HYK, RC, relevant women's organisations and youth groups in the Districts concerned as well as every registered elector in the villages concerned to appeal to electors to actively participate in this Rural By-election. However, there may have a possibility that the indigenous inhabitants of the IVs and residents of the EVs in the Rural Areas concerned were less than enthusiastic about standing for the elections and therefore, no nomination was received and the relevant seats remain vacant.

9.4 The EAC recommends that the HAD should keep up its effort, strengthen its publicity measures and, through daily community liaison work, encourage the residents of the villages to stand for the RR elections by actively engaging them in rural affairs and enhancing their understanding of the roles and significance of RRs in village development.

Section 10 – Acknowledgement

10.1 The EAC wishes to extend its gratitude to the 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. Besides, the EAC would like to thank the CSD, 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 station and all those who complied with the electoral legislation and guidelines.

Section 11 – The Way Ahead

11.1 The HAD is planning the conduct of another round of By-election in December 2019 to fill RR vacancies which have arisen but have not yet been filled in this By-election and those 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.