

CHAPTER 14

REVIEW AND RECOMMENDATIONS

Section 1 – A General Remark

14.1 The Commission is generally satisfied with the smooth conduct of both the EC Subsector Elections and the CE Election, which were organised in an open, fair and honest manner. After the completion of both elections, the EAC, following past practices, conducted a comprehensive review of all aspects of the electoral procedures and arrangements with a view to improving the conduct of future elections. The significant areas under review and the related recommendations are set out in the ensuing paragraphs.

Section 2 – Review and Recommendations

The 2006 EC Subsector Elections

(I) Matters relating to Preparation Work

(A) Nomination period

14.2 For the 2006 EC Subsector Elections, the nomination period lasted for 8 days, starting from 1 November and ended on 8 November 2006. During the nomination period, a total of 1,107 nominations were received. Given the large number of candidates, the REO considered it desirable to extend the nomination period to 14 days (similar to the LegCo and DC elections) for future elections, so as to allow more time for the processing of nominations and determination of their validity. A longer nomination period is permissible under the existing electoral legislations.

Recommendation:

14.3 In the light of the experience of the 2006 EC Subsector Elections, consideration should be given to extending the nomination period for future elections to 14 days to allow more time for processing the nominations and to encourage more eligible persons to come forward as candidates. Although it is possible that some nominations would still bunch together towards the end of the nomination period, a longer nomination period should help spread out the heavy workload to a certain extent.

(B) Contingency plan

14.4 A comprehensive contingency plan was drawn up by the REO to provide for a wide range of measures. The plan included the setting up of five emergency depots for replenishment of supplies (eg ballot boxes, ballot papers, furniture etc), the provision of additional staff and dedicated transport facilities to each of the 110 polling stations. In addition, a backup system for compilation of voter turnout statistics and a fall-back venue for setting up the central counting station had been put in place by the REO to ensure the smooth conduct of the 2006 EC Subsector Elections. Trial runs of these measures had been conducted beforehand, where necessary.

Recommendation:

14.5 The arrangement for drawing up a comprehensive contingency plan for the various aspects of electoral arrangements to cater for unexpected difficulties for each and every election or by-election should continue.

(C) Booking of a suitable venue for the central counting station

14.6 Shortly after the completion of the 2005 CE Election, the REO had started to explore the availability of a suitable venue for setting up the central counting station for the 2006 EC Subsector Elections assuming that the poll would be probably held in December 2006. Upon the fixing of the polling date on 10 December 2006, Halls 2 and 3 of the HKCEC were booked to serve as the central counting station.

Recommendation:

14.7 While a suitable venue was successfully secured this time, this could not be taken for granted. Given the limited supply of suitable venues in Hong Kong, the polling date should be determined as early as possible to facilitate the booking of a suitable venue for use as the central counting station. Before the exact polling date could be firmed up, it would be useful to pencil in the potential dates so as to ensure the availability of a suitable venue.

(II) Matters relating to Operational Aspects

(D) Omission of a candidate's messages in the introductory leaflet

14.8 Some complaints were lodged to the REO for having omitted the election platform of a subsector candidate in the candidates' introductory leaflet. The REO had investigated into the case and found that the omission was attributed to some clerical error and remedial measures had been taken up with the Government Logistics Department ("GLD") immediately to re-print a revised version of the candidates' introductory leaflet. The staff concerned had been appropriately advised to be more cautious in their work.

Recommendation:

14.9 Although this is an isolated incident due to clerical error, to improve the situation, if no grid paper is received from a candidate before the printing deadline, the REO should take the initiative to check with the candidate concerned to ascertain whether he wishes to have his platform included in the candidates' introductory leaflets before proceeding with the printing work.

(E) The placement of candidates' introductory leaflet at the polling stations

14.10 To facilitate the electors to identify the large number of candidates, the introductory leaflets on the candidates included a summary of candidates' names and their declared political affiliation for each subsector, and copies of the introductory leaflets were provided in each polling station for the electors' reference, if necessary. Some candidates considered that the polling staff should proactively provide a copy of the leaflet to each elector upon the issue of the ballot paper at the ballot paper issuing desk. In the light of such suggestion, a notice was subsequently posted on the notice stand near the entrance of each polling station informing electors of the availability of the introductory leaflets for reference at the polling stations.

Recommendation:

14.11 The arrangement of posting a notice on the notice board informing electors of the availability of the introductory leaflet for their reference should continue and should meet the purpose of reminding those electors with such a need. It is considered impractical to provide each elector with a copy of the leaflet in the polling station as such an arrangement would have financial and environmental protection implications. Furthermore, not every elector has

such a need given that the leaflet has already been sent to individual electors along with the poll cards before the polling day.

(F) Posting of information sheets about candidates at the polling stations

14.12 The polling stations were required to post information sheets about the candidates at the polling station entrance. Some candidates complained that some of the candidates' information sheets posted did not include the candidates' election platforms while such information was included in the introductory leaflets sent to electors. They suggested that all the information concerned should be included in the information sheets for the electors' reference.

14.13 Some candidates also expressed dissatisfaction that, whilst the information sheet generally consisted of one page for each contested subsector, the one for the Medical subsector consisted of two pages and the one for the Social Welfare subsector consisted of three pages. They considered that this might not be fair to those candidates shown in the second or third pages as some electors might have missed them. For these two subsectors, the information sheet had to be longer than one page because of the large number of candidates involved in these two subsectors (63 for the Medical subsector and 99 for the Social Welfare subsector). Having considered the complaints, the REO had given instructions to the PROs concerned that separate pages of the poster for the two subsectors should be stuck together for display.

Recommendation:

14.14 For future elections, the candidates' information sheets for display at polling stations should be enlarged to include all the relevant details about the

candidates in future elections. For the posters of those subsectors which consisted of more than one page, the arrangement to stick all the pages together should continue and clear instructions should be given to all the PROs.

(G) Free postage for joint election advertisements

14.15 Some candidates suggested that they should be allowed to send joint EAs to electors by free postage subject to the condition that the relevant joint EAs might only be sent free of postage once (so that they would not have an undue advantage over an independent candidate in the same subsector). This would also achieve savings on paper consumption.

14.16 For an EA to be mailed free of postage, it must contain materials relating only to the candidature of the candidate at the election (except in the case of the LegCo geographical constituency election which runs on a list system) (section 38 of the Schedule to the CEEO, section 99(1) of the EAC (EP) (EC) Reg, section 6(1)(d) of the Post Office Regulations and paragraph 8.66 of the EAC Guidelines are relevant). The purpose is to provide a level playing field so that joint candidates would not have an undue advantage over independent candidates in promoting themselves.

14.17 According to D of J's advice, joint EAs produced by a group of candidates in the same subsector did not comply with the above requirements since the candidates were promoting their candidature in the subsector and hence the condition of "relating only to the candidature of the candidate" would not be met.

Recommendation:

14.18 The Commission noted that the proposal may lead to some reduction in postage cost and savings on paper consumption. However, it may give some undue advantage to the group as candidates in the group would be able to save production costs for the EAs which would then be mailed out through public sponsorship. The Commission suggests that the issue be reviewed again in future.

(H) Delivery of ballot boxes to the counting tables

14.19 There were concerns about the time taken for delivery of ballot boxes from Hall 2 to Hall 3 of the HKCEC as ballot box(es) of each polling station was/were transferred each time through the lift. The separation of the ballot box reception and deposit area with the counting zones at two floor levels had hindered the work flow and efficiency in delivery of the ballot boxes to the counting zones since, for safety reasons, the HKCEC allowed transportation of ballot boxes from Hall 2 to Hall 3 by lift only. The situation was further aggravated by the need to make public announcement in Chinese and English each time the ballot boxes from a polling station were to be delivered from Hall 2 to Hall 3.

Recommendation:

14.20 The Commission considers that the central counting station should be large enough to accommodate both the counting zones and the ballot box reception and deposit areas. Alternatively, the ballot box reception and deposit areas should at least be situated on the same floor level with the counting zones in order to avoid the logistical complications in transporting the

ballot boxes between two floor levels. If appropriate, the arrangement should be further streamlined in future elections.

(I) Time taken for sorting, streaming, visual screening of ballot papers

14.21 There were criticisms about the time taken for completing the vote counting process as the first ballot boxes was opened at about 12:45 am on 11 December 2006 but the actual counting of votes (after sorting, streaming and visual screening) did not start until 2:45 am on 11 December 2006. It was noted that the sorting of ballot papers by subsectors took the longest time in the counting process as counting staff needed to verify carefully the number of sorted ballot papers for each subsector against the figure as indicated in the relevant ballot paper accounts. In case of any discrepancy, the sorted ballot papers had to be re-counted again to see if they had been sorted correctly.

Recommendation:

14.22 The Commission recommends that there should be enhanced training for staff in the ballot paper sorting process so as to speed up the process.

(J) Announcement of the election result

14.23 The first counting result was only available shortly after 7:30 am on 11 December 2006, more than 9 hours after the completion of the poll. The Commission noted that the apparent delay in announcing the election results might have been caused by efforts to ensure the accuracy of the counting results through a meticulous counting process. After the commencement of the counting process, all ballot papers were sorted by subsectors and then read by the OMR machines. To minimise the risk of omission to count any ballot

papers which had been wrongly sorted, no election result was compiled for any subsector until the ballot papers of all the subsectors were read by the OMR machines. The announcement of the election results therefore bunched together. After the first batch of election results was available shortly after 7:30 am on 11 December, the election results of many other subsectors were also available shortly afterwards. The ROs had to queue up to announce the election results at the stage. This was aggravated by the fact that, given the large number of candidates, the ROs had to read out (in both Cantonese and English) the votes obtained by each and every candidate together with their names and candidate numbers as well as the name and candidate number of each elected candidate. This took considerable time and the election result of the last subsector could only be announced by noon.

Recommendation:

14.24 The REO should review the workflow of the counting process and the procedures in releasing the election results. Ways and means of expediting the processes without jeopardising the accuracy of the counting results should be further explored.

(K) Fax machines used at polling stations

14.25 Similar to the 2005 EC Subsector By-elections, fax machines were used for the 2006 EC Subsector Elections as the channel for collecting electoral statistics from a total of 110 polling stations by the SIC on the polling day. This was the first time fax machines were used for collecting electoral statistics in large-scale ordinary elections. The overall operation was smooth and efficient.

Recommendation:

14.26 This method had proved to be more straight-forward, simple and easy to operate with a high level of data integrity maintained when a large number of figures had to be reported back to the SIC, as compared with the other methods used in previous elections such as verbal reports by telephone or electronic report through the Interactive Voice Response System. The Commission suggests that this practice, which would improve both efficiency and accuracy, should continue to be adopted for future LegCo elections and EC subsector elections, especially given the need to handle a large number of figures.

(L) Deployment of counting staff

14.27 A two-shift system was implemented to prevent the staff fatigue problem in case the counting process could not be completed by 8:30 am on the day following the polling day. About 1,250 and 240 counting staff were appointed for the first and second shifts respectively for counting of votes at the central counting station. The first shift would work from 8:30 pm on the polling day to 8:30 am the next day, the second shift would start from 7:30 am onwards. By the time the second shift started work, the counting process for some subsectors was almost completed.

Recommendation:

14.28 Based on the experience of this election, the REO should carefully review the shift system and working hours for the counting staff to come up with a more effective and efficient arrangements.

(M) Inspection of polling stations

14.29 The REO set up three inspection teams to visit a total of 22 polling stations across the territory with a view to ensuring that the polling staff did conduct the poll in accordance with the prescribed polling procedures as laid down in the operational manuals. Only minor discrepancies relating to display of election notices and candidates' election platforms were identified by the inspection teams and they were all immediately rectified by the polling staff concerned on the spot.

Recommendation:

14.30 The Commission considers that the inspection teams were useful in detecting any irregularities or anomalies in the polling stations and in giving timely advice to the polling staff, where appropriate. The deployment of the inspection teams should continue in future elections.

(III) Matters relating to the Guidelines

(N) Free postage arrangement for uncontested subsectors

14.31 There were enquiries from some candidates of the uncontested subsectors on whether they could send out their "thank-you" letters to their electors by free postage.

14.32 Under section 38 of the Schedule to the CEEO, a validly nominated candidate is entitled to the free postage of one election-related letter addressed to each elector of his subsector in accordance with the requirements prescribed by the EAC Regulations. Under section 99(1) of the EAC (EP) (EC) Reg, a

letter may be sent free of postage by a candidate as long as the content materials are related to the candidate's candidature for the subsector election concerned. According to the law, as long as the candidates are validly nominated, they are entitled to have free postage whether or not they are contested or uncontested.

14.33 However, under paragraph 8.73 of the EAC Guidelines, the candidates are required to print the words "Election Advertisement" on the front side of the envelopes for free postage. As "thank-you" letters are not sent for purpose of promoting the election of a candidate, they cannot be classified as "election advertisements". The description of "Election Mail" or "選舉函件" might be more appropriate to cater for the need of the uncontested candidates who wish to communicate with their electorates.

Recommendation:

14.34 The free postage arrangement should be available to uncontested candidates who wish to make use of such a service. Paragraph 8.73 of the EAC Guidelines should be appropriately amended.

(O) Size requirement for banner displaying at designated spots

14.35 Some candidates expressed dissatisfaction that they were disallowed by the RO to display a joint banner longer than 2.5 metres even though they were allocated consecutive spots without spaces in between. They argued that they were not breaching the guidelines as the 2.5 metres requirement should be read in the context of individual's area and they should be allowed to do so as long as the banner did not exceed the total area allocated to them.

14.36 An EA advertising two or more subsector candidates is allowed to be

displayed on the designated spots allocated to the candidates concerned under paragraph 8.28 of the EAC Guidelines, provided that the total number of spots as well as the total area of all the spaces actually occupied for joint advertisements do not exceed the total number of spots as well as the total area of the designated spots allocated to each of the candidates. Paragraph 8.32 of the EAC Guidelines provides that EAs displayed at railings and fences must not exceed the height and length of these structures, and in no circumstances be more than 1 metre high and 2.5 metres long.

Recommendation:

14.37 The Commission considers that there is no inconsistency between paragraphs 8.28 and 8.32 of the EAC Guidelines as the former is intended to restrict the total space entitlement and number of spots for display of EAs for a candidate or a list of candidates as in the LegCo election while the size restriction in the latter is intended for the display of EA at each designated spot. However, cross references should be made between these two paragraphs in the EAC Guidelines, for clarity.

(P) Language used in the election platforms

14.38 An elector who was a non-Chinese speaking person was concerned that, since the information on the candidates in the introductory leaflets of her subsector was all written in Chinese, she was left out of the electoral process as she could not vote without knowing what the candidates' platforms were. She suggested that the candidates should also express their platforms in English. At present, candidates are provided with a guide on completion of grid paper for the production of the candidates' introductory leaflet. Although there is no restriction on the language to be used, candidates are advised in the guide that

there are electors who are only familiar with either the Chinese or English language and they are equally entitled to be informed of the platform. Candidates have been reminded in paragraph 4.38 of the EAC Guidelines that some electors are only able to read English.

Recommendation:

14.39 The existing guidelines have already reminded candidates of the use of language in the introductory leaflet. The fact remains that the form of presentation is purely a matter for the candidates themselves. The Commission will, however, continue to remind candidates to have regard to the fact that some electors do not understand Chinese.

The 2007 CE Election

(I) Matters relating to Preparation Work

(A) Booking of a suitable venue

14.40 The AWE in Lautau Island was used as the polling and counting stations for the CE Election, as no other suitable venue was available during the specified period. Since the AWE was not located in the city centre and was relatively new to most people, to facilitate the convenience of the electors and to ensure their prompt arrival at the poll, it was necessary to put in place a series of measures to cope with any unforeseen situations which might affect traffic and accessibility to the venue on the polling day.

Recommendation:

14.41 In deciding the venue of a polling and counting station, the convenience of the location should be accorded a high priority in future. Where possible, a more conveniently located venue should be used. Given the limited supply of venues in Hong Kong, the polling date should be determined as early as possible to ensure the booking of a suitable venue. Before the exact polling date could be firmed up, potential dates should be pencilled in to secure the availability of a suitable venue.

(B) Polling hours

14.42 For the 2007 CE Election, the polling hours for the first round of poll was revised from one to two hours (paragraph 8.4 above refers). The extended polling hours had contributed to the smooth operation of the poll on the polling day, given the distance of the polling station from the town centre and electors' unfamiliarity with AWE.

Recommendation:

14.43 Consideration should be made to keep the duration of the polling hours of the first round of poll as two hours, particularly if a new venue is used as the polling station in future CE elections.

(C) Provision of transportation guide to electors

14.44 To facilitate the electors to travel to the AWE, a transportation guide was mailed to electors together with the polling notice (paragraph 8.11 above refers). The advanced notification on the detailed transportation arrangements

could help electors assess how and when they should make their trip to the AWE on the polling day, thus avoiding last-minute rush or miss of the polling hours owing to unfamiliar traffic condition.

Recommendation:

14.45 Should a venue which is unfamiliar to most people is used in future CE elections, detailed transportation guides should be prepared and provided to electors in advance, so that they can plan their trips ahead to minimise unnecessary delays in transportation.

(D) Name badges for electors

14.46 In the 2007 CE Election, name badges (and vehicle entry permits) were provided to electors prior to the poll together with the polling notice (paragraph 8.12 above refers). It was noticed that most electors had carried the name badges with them when they entered the polling station on the polling day. This arrangement enabled the working staff to differentiate electors from the press and members of the public in the vicinity of the venue, thereby facilitating smooth conduct of the reception work and maintaining the smooth passage of electors to the polling station. Moreover, as each name badge would carry the code of the ballot paper issuing desk to which an elector was allocated, the elector could be led to the correct issuing desk inside the polling station quickly.

Recommendation:

14.47 It is considered that the practice of providing name badges (with code of issuing desk) and vehicle entry permits to electors prior to the polling day

should be adopted in future CE elections in view of the apparent merits in facilitating reception and security work.

(E) Ushering and marshalling duty

14.48 In view of the fact that the AWE might be new to most people and the size of the venue was large, to ensure safe and smooth passage of electors, a number of staff were deployed to perform ushering and marshalling duties to direct electors and the public arriving from different directions to the appropriate areas inside the AWE through different assigned routes. The arrangement helped ensure that only electors and duty staff would be allowed to enter the polling station, thereby facilitating the smooth operation of the poll. At the same time, members of the public could enter the venue in an orderly manner and stay in the designated area in the counting station to observe the count.

Recommendation:

14.49 In future CE elections, sufficient manpower should again be deployed to station at various strategic locations inside and outside the venue, in order to direct electors and the public to different designated areas in the polling and counting stations, so that order in the vicinity of the station can be maintained.

(F) Waiting and resting areas in polling station

14.50 For the convenience of electors, a waiting area was set up right in front of the entrance of the polling station, so that electors who arrived early at the venue before the polling hours (about 90 of them) could take a seat in the waiting area. Likewise, a resting area was set up outside the exit of the

polling station, so that electors who had cast their votes and wished to stay to observe the count could rest in the resting area. The set up of these areas was welcomed by electors, and could help to encourage most electors to stay behind to observe the count.

Recommendation:

14.51 Consideration should be made to adopting similar arrangements in future CE elections. The availability of a waiting area outside the entrance will help accommodate electors who arrive early, whereas the availability of a resting area outside the exit of the polling station will help encourage electors to stay to observe the count after casting their votes. It also facilitates easy communication with electors, in case if the second round of voting is required.

(G) Issuing desks and voting compartments

14.52 In view of the duration of polling hours and the possible need to conduct more than one round of voting on the same day, the number of electors to be served by each ballot paper issuing desk was prudently determined, taking into account the throughput of each issuing desk to handle possibly a large influx of electors near the close of poll. 22 issuing desks were set up to receive electors according to their Hong Kong identity card numbers. The desks were divided into two rows in the polling station, with each serving about 20 to 47 electors. It was observed that during the peak, only about five to six electors were queuing up for ballot papers at some issuing desks, and the queue was cleared within a few minutes.

14.53 In order to ensure that electors could enter a voting compartment to mark the ballot papers expeditiously, 61 voting compartments (including five

for disabled electors) were set up on the two sides of the polling station, so that queues outside the voting compartments could be avoided as far as possible.

Recommendation:

14.54 It is considered that for future CE elections, careful planning should again be made to ensure that a sufficient number of issuing desks and voting compartments are installed, and that the polling station is spacious enough to cater for the set up. Adequate manpower should also be deployed to man the issuing desks.

(II) Matters relating to Questionable Ballot Papers

(H) Use of visualiser to display questionable ballot papers

14.55 A visualiser was used to project the questionable ballot papers individually on the screen when the RO determined the validity of the ballot papers. While some expressed support for the arrangement as it would enhance the transparency of the counting process and educate people how to vote properly, some were concerned that if a ballot paper was intentionally marked in such a way so that the elector could be identified by the candidate, exposing the ballot paper by way of a visualiser for public inspection might render assistance to illegal and corrupt 'vote-buying' conduct.

Recommendation:

14.56 The use of visualiser enabled candidates, their agents and the public to inspect questionable ballot papers being adjudicated upon. This was particularly useful for the 2007 CE Election, as the venue was quite large.

However, some may take the view that, as the candidates and their election/counting agents are already allowed to inspect the questionable ballot papers under the EP (CEE) Reg, the use of visualisers in the inspection process would not facilitate illegal and corrupt conduct. Moreover, to lower the risk of illegal and corrupt conduct, the EP (CEE) Reg already provides that a ballot paper with any writing or mark by which the RO is of the opinion that the elector may possibly be identified, such a ballot paper shall not be counted. That said, as there were divergent views on the use of visualiser to display questionable ballot papers in the counting station, it is considered that the REO should review this practice before the next CE Election.

(III) Matters relating to Co-ordination and Supervision

(I) Co-ordination with other departments and bodies

14.57 As the CE Election is a very important and significant event in Hong Kong, it was essential to ensure its smooth conduct by pooling the expertise and resources from a number of government departments such as the Police, TD, ISD as well as commercial organisations like bus companies running routes to the AWE. Such departments and bodies were heavily engaged in the preparatory work of the CE Election, apart from taking up different roles on the polling day. They had worked closely with the REO throughout the election period. Their professional expertise and unflinching support in the meticulous planning and implementation of security, transport and media arrangements had contributed greatly to the smooth conduct of the CE Election.

Recommendation:

14.58 The operational experience of the CE Election shows that assistance and commitment from other relevant government departments or organisations are important to the successful conduct of a large scale election. For future CE elections and other major elections, the REO should continue to work closely with other relevant government departments on the various arrangements prior to and on the polling day, so that information and resources can be pooled together in the planning, decision-making and implementation processes, and any possible problematic scenarios can be addressed well in advance. The participation of key personnel in these departments or organisations is vital to the smooth conduct of major elections.

(J) Set up of the JCC

14.59 This was the first time a JCC comprising relevant government departments and organisations was set up to oversee the conduct of an election on the polling day. The set up of the JCC had proved to be effective in co-ordinating the various aspects of the Election by different parties, including the timely sharing and dissemination of information, discussion on problem-solving and monitoring of unusual happenings.

Recommendation:

14.60 It is considered that a JCC should be set up to centrally co-ordinate the conduct of the Election on the polling day in future CE elections. The arrangement should also be extended to other large scale major elections, although the composition of the JCC may have to be adjusted according to the specific needs of individual elections.