

ELECTORAL AFFAIRS COMMISSION

REPORT ON THE 2019 YUEN LONG DISTRICT COUNCIL BY-ELECTION

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**

14 October 2019

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/14/12/2/DCB-19
來函檔號 YOUR REF.:

圖文傳真 Fax: 2507 5810
電話 Tel.: 2827 1419
網址 Web Site: <https://www.eac.hk>

14 October 2019

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 2019 Yuen Long District Council By-election held on 14 July 2019.

Yours faithfully,



Barnabas Wah FUNG, Chairman



Arthur Yee-shun LUK, Member



Fanny Mui-ching CHEUNG, Member

ABBREVIATIONS

APRO, APROs	Assistant Presiding Officer, Assistant Presiding Officers
ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
By-election	2019 Yuen Long District Council By-election
CEO	Chief Electoral Officer
CSD	Correctional Services Department
DC	District Council
DCO	District Councils Ordinance (Cap. 547)
DoJ	Department of Justice
DPROs	Deputy Presiding Officers
DPS, DPSs	Dedicated Polling Station, Dedicated Polling Stations
EAs	Election Advertisements
EAC	Electoral Affairs Commission
EAC (EP) (DC) Reg	Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F)
ICAC	Independent Commission Against Corruption
LEAs	Law Enforcement Agencies

MCS	Main Counting Station
NAC(DC)	Nominations Advisory Committee (District Councils)
NCZ, NCZs	No Canvassing Zone, No Canvassing Zones
NSZ, NSZs	No Staying Zone, No Staying Zones
OPS	Ordinary Polling Station
PRO, PROs	Presiding Officer, Presiding Officers
RC	Rural Committee
REO	Registration and Electoral Office
RO	Returning Officer
The Guidelines	The Guidelines on Election-related Activities in respect of the District Council Election

TABLE OF CONTENTS

<u>Section</u>		<u>Page</u>
1	Background	1
2	Appointments and Nominations	4
3	Preparation Work	8
4	The Poll	14
5	Setting-up of Counting Station	17
6	The Count	19
7	Complaints	22
8	Review and Recommendations	24
9	Acknowledgement	28
10	Looking Forward	30

<u>Appendices</u>		<u>Page</u>
Appendix I	: Areas of the Constituencies	31
Appendix II	: Hourly Voter Turnout	33
Appendix III	: Summary of Ballot Papers in Ballot Boxes that were Not Counted	34
Appendix IV	: Result of Election	35
Appendix V	: Breakdown of Complaint Cases Received during the Complaints-handling Period	36
Appendix VI	: Breakdown of Complaint Cases Received on the Polling Day	37

Section 1 – Background

Cause of the By-election

1.1 Mr MAN Kwong-ming, the elected member for the San Tin Constituency of the Yuen Long District Council (“DC”) in the 2015 DC Ordinary Election, was convicted of an offence of fraud on 8 March 2019, and subsequently sentenced to 8 months’ imprisonment by the Magistrates’ Court on 21 March 2019. According to section 24(1)(d)(i) of the District Councils Ordinance (Cap. 547) (“DCO”), Mr MAN was disqualified from holding his office. In accordance with section 32(1) of the DCO, the Director of Home Affairs declared that the office of an elected member of the Yuen Long DC San Tin Constituency has become vacant since 8 March 2019 pursuant to section 26(c) of the DCO by publishing a notice in the Gazette on 11 April 2019.

1.2 Besides, Mr CHING Chan-ming, the elected member for the Shap Pat Heung West Constituency of the Yuen Long DC in the 2015 DC Ordinary Election, was elected as the Chairman of the Shap Pat Heung Rural Committee (“RC”) on 14 March 2019. Pursuant to sections 9(1)(c) and 17(1) of the DCO, Mr CHING has become an ex-officio member of the Yuen Long DC since 1 April 2019 by virtue of his holding office as the Chairman of the aforesaid RC. However, in accordance with section 10 of the DCO, if a person holding office as an elected member of a DC (“the first office”) becomes entitled to hold office as an ex-officio member of the same or another DC (“the second office”), that person is

taken to have resigned from the first office with immediate effect before the date on which the person commences to hold the second office. In this connection, in accordance with section 32(1) of the DCO, the Director of Home Affairs declared that the office of an elected member of the Yuen Long DC Shap Pat Heung West Constituency became vacant on 31 March 2019 pursuant to sections 10 and 26(b) of the DCO by publishing a notice in the Gazette on 12 April 2019.

1.3 In accordance with section 33(1)(a) of the DCO, the Electoral Affairs Commission (“EAC”) was required to arrange a by-election to return two elected members to fill the vacancies in the San Tin Constituency and Shap Pat Heung West Constituency of the Yuen Long DC.

The Constituencies

1.4 The San Tin Constituency and Shap Pat Heung West Constituency are two of the 35 DC constituencies in the Yuen Long District, with a registered electorate of 9 208 and 10 415 respectively. Maps showing the areas of the two Constituencies are in **Appendix I**.

The Polling Day and the Nomination Period

1.5 A notice of the 2019 Yuen Long DC By-election (“By-election”) was published in the Gazette on 17 May 2019. It specified 14 July 2019 (Sunday) as the polling day and the period from

28 May to 10 June 2019 (both dates inclusive) as the nomination period of the By-election.

Section 2 – Appointments and Nominations

Appointments

2.1 Mr YUEN Ka-lok Enoch, JP, District Officer (Yuen Long) was appointed by the EAC as the Returning Officer (“RO”) for the By-election, and Mr NG Lak-sun Nixon, Assistant District Officer (Yuen Long)¹ was appointed as the Assistant Returning Officer (“ARO”). Their appointments, which were post-tied, were published in the Gazette on 17 May 2019. Ms CHENG Tai-ngar Dorothy, Acting Senior Assistant Solicitor General and Miss LAW Ying-man Jenny, Senior Government Counsel of the Department of Justice (“DoJ”), were also appointed by the EAC on 10 May 2019 as the AROs (Legal) for the By-election.

2.2 Mr Kevin CHAN, Barrister-at-law, was appointed to serve on the Nominations Advisory Committee (District Councils) (“NAC(DC)”) for the By-election to provide the RO with legal advice as and when required as to whether a particular candidate is eligible to be, or disqualified from being, nominated as a candidate at the By-election. Mr CHAN’s appointment, covering the period from 28 May to 12 June 2019 (both dates inclusive), was published in the Gazette on 17 May 2019.

Nominations

2.3 The two-week nomination period ended on 10 June 2019, and the RO received a total of two nominations for the San Tin Constituency and one nomination for the Shap Pat Heung West Constituency. All these nominations were determined as valid by the RO. The nominees for the San Tin Constituency were Mr MAN Ka-koy and Mr MAN Ka-ho Donald. The nominee for the Shap Pat Heung West Constituency was Mr LEUNG Fuk-yuen. The NAC(DC) did not receive any request from the RO for legal advice on the validity of nomination. The names of the three validly nominated candidates were published in the Gazette on 21 June 2019. As there was only one validly nominated candidate for the Shap Pat Heung West Constituency, notice was also given in the aforesaid Gazette for the purposes of section 39(1) of the DCO that Mr LEUNG Fuk-yuen was declared as being duly elected as an elected member for the Shap Pat Heung West Constituency By-election. On 28 June 2019, the Registration and Electoral Office (“REO”) sent the Notice of Uncontested Election together with the “Introduction to Candidates” to each registered elector of the Constituency concerned.

Briefing for the Candidates

2.4 Mr Justice FUNG Wah Barnabas, the EAC Chairman, held a briefing session for the validly nominated candidates in the By-election at the Yuen Long Town East Community Hall on 13 June 2019. The Chief Electoral Officer (“CEO”) and representatives of the DoJ,

the Independent Commission Against Corruption (“ICAC”) and Hongkong Post also attended the briefing session. The EAC Chairman drew the attention of the candidates and their agents to the major provisions in the relevant electoral legislation and guidelines and the need for strict compliance with them. He also explained to the candidates the important points to note when conducting electioneering activities, mainly on polling and counting arrangements, appointment and roles of various types of agents, requirements relating to election advertisements (“EAs”) and election expenses, and the importance of protection of electors’ privacy when using their personal information in electioneering activities. The representatives of the ICAC and Hongkong Post also briefed the attendees respectively on the provisions in the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and the requirements and arrangements of the free postage service for election mails.

2.5 Before the briefing session, the RO, witnessed by all parties present, drew lots to determine the candidate number to be shown on the ballot paper for each candidate and the designated spots to be allocated to each candidate for the display of EAs. The result of the lots drawing was as follows:

Candidate Number	Name of Candidate
1	Mr MAN Ka-koy
2	Mr MAN Ka-ho Donald

A total of 10 spots in the San Tin Constituency were designated for the

display of EAs by candidates during the election period, and each candidate was allocated 5 designated spots.

The EAC Guidelines on Election-related Activities

2.6 The Guidelines on Election-related Activities in respect of the District Council Election (“the Guidelines”) issued by the EAC in September 2015 were applicable to the By-election. The EAC also included supplementary information in the Guidelines in January 2019, setting out the latest legislative changes and electoral arrangements concerned which were applicable to the By-election for reference and compliance by candidates and relevant parties. The Guidelines and the supplementary information concerned were available at the EAC website (<https://www.eac.hk>) for browsing and downloading, or the REO during the election period.

Section 3 – Preparation Work

Appointment and Training of Polling/Counting Staff

3.1 The polling and counting duties of the By-election were performed by staff of the REO. On 27 June 2019, the REO held a polling management training session for the Presiding Officers (“PROs”), Deputy Presiding Officers (“DPROs”) and Assistant Presiding Officers (“APROs”) in order to enhance the quality of management of polling stations. The training covered topics such as the key provisions under the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F) (“EAC (EP) (DC) Reg”), quality polling service, complaints handling and crisis management. In addition, two half-day briefing sessions on polling and counting duties were also conducted on 27 and 28 June 2019 respectively for staff of the ordinary polling stations (“OPSs”) and dedicated polling stations (“DPSs”) to familiarise themselves with their duties. Moreover, a half-day workshop was organised on 5 July 2019 for staff responsible for vote counting to take part in a mock counting exercise so as to familiarise themselves with the counting procedures.

The Polling-cum-counting Station

3.2 The CEO designated the St. Gavriel Kindergarten and Tun Yu School as the OPSs for the San Tin Constituency By-election. Both OPSs were accessible to electors with mobility difficulties. Besides, as

the St. Gavriel Kindergarten was assigned with a larger number of electors, it was designated as the dominant counting station in accordance with the law for coordinating the counting results of all counting stations. The Tun Yu School was designated as the Main Counting Station (“MCS”) where the votes cast thereat and at the DPSs would be mixed and counted. The counting results of the election would also be announced at the MCS.

3.3 The two OPSs were set up in the morning of the day preceding the polling day. They were converted into counting stations after the close of poll. Within both counting stations, there were counting zone, press area and public area where members of the public might observe the count. Candidates and their election/counting agents were allowed to enter the counting zone to observe the count around the counting tables.

Dedicated Polling Stations

3.4 To enable registered electors of the San Tin Constituency who were imprisoned or remanded by the Correctional Services Department (“CSD”) to cast their votes on the polling day, DPSs were set up at penal institutions for the By-election by the REO. According to the information provided by the CSD on 13 July 2019, a total of nine registered electors of the San Tin Constituency were in their custody at five penal institutions on the polling day. Therefore, a DPS was required to be set up at each of these five penal institutions. Owing to security considerations, the polls at the DPSs were conducted from

9:00 a.m. to 4:00 p.m.

3.5 On the polling day, the REO also set up a DPS at the Yuen Long Police Station for registered electors of the San Tin Constituency who were remanded or detained on the polling day by law enforcement agencies (“LEAs”) (other than the CSD), including the Police, ICAC, Customs and Excise Department, Immigration Department, etc. to cast their votes. Since the LEAs might arrest persons who happened to be registered electors of the Constituency during the polling hours on the polling day, the polling hours for the DPS at the Yuen Long Police Station were the same as those of the OPSs, i.e. from 7:30 a.m. to 10:30 p.m. The set-up of a DPS was basically the same as that of an OPS, but some of the polling materials used therein were specially designed for security reasons.

3.6 To protect the secrecy of votes cast at the DPSs, such votes would be transferred to the MCS at the Tun Yu School and mixed with the ballot papers cast at that MCS before commencement of vote counting procedures in accordance with section 76 of the EAC (EP) (DC) Reg.

3.7 The designation of the aforesaid venues as polling and counting stations, DPSs, dominant counting station and MCS was published in the Gazette on 21 June 2019. Candidates were informed that subject to the required security clearance, they or their election/polling agents could enter the DPSs to observe the poll and witness the delivery of the ballot

boxes to the MCS by the PROs of the DPSs concerned in accordance with the relevant electoral regulation.

Polling and Counting Arrangements

3.8 During the polling hours, the PROs of the two OPSs, with the assistance of the DPROs and APROs, were responsible for ensuring the smooth operation of the polling station. The PROs also worked closely with the RO. When the count started, the PROs assumed the role of Counting Supervisors in overseeing the counting process and were responsible for determining the validity of questionable ballot papers, while the DPROs and APROs performed the duties of Assistant Counting Supervisors.

3.9 The PRO of each DPS was assisted by an APRO and/or a Polling Officer. After the close of poll, the PROs of DPSs locked and sealed the ballot boxes, and delivered them to the MCS at the Tun Yu School under the escort of the Police.

3.10 Outside all the polling stations, a No Canvassing Zone (“NCZ”) and a No Staying Zone (“NSZ”) were designated by the RO to provide electors with unobstructed access to the polling stations. A notice was put up at a conspicuous spot outside each polling station, showing the areas of the NCZ and NSZ.

Poll Cards to Electors

3.11 On 28 June 2019, the REO sent a poll card to each registered elector of the San Tin Constituency who was eligible to vote in the By-election, notifying the electors of the date and time of polling and the assigned polling station. The poll card was sent together with other election-related materials, including an “Introduction to Candidates”, a location map of the polling station (containing also the “Guide on Voting Procedure” and information on the “Documents Required for Collecting Ballot Paper”) and a leaflet on clean and fair elections produced by the ICAC. The “Introduction to Candidates”, which included the candidates’ election platforms, was also uploaded onto the EAC website. To assist persons with visual impairment in reading the contents of the “Introduction to Candidates”, the REO appealed to candidates to provide a typed text version of their messages to be included in the “Introduction to Candidates” for uploading onto the EAC website. The two candidates in the San Tin Constituency By-election heeded the advice and provided a typed text version.

Publicity

3.12 The REO issued press releases covering the major issues of the By-election, which included the nomination period, the number and related information of the nominations received, the setting up of OPSs and DPSs, voter turnout rates, visits of the EAC members to the polling stations and counting stations, and the election result. Besides, all

relevant information on the By-election (including press releases, voter turnout rates, election result, etc.) was uploaded onto the EAC website for public information.

Contingency Plan

3.13 To cater for unforeseen situations (such as inclement weather conditions) under which the By-election could not be held as scheduled, fallback arrangements were made by the REO with the venue management of the polling stations to reserve the same venues for voting on the following Sunday (i.e. 21 July 2019). Besides, a reserve polling station was set up on the polling day, and extra stock of electoral equipment and materials (such as ballot boxes, ballot papers, furniture and electoral forms, etc.) were put in reserve. Two lorries were also provided to the polling stations to cater for any urgent transportation needs.

Section 4 – The Poll

Polling Hours

4.1 The polling hours for the OPSs at the Tun Yu School and St. Gavriel Kindergarten as well as the DPS at the Yuen Long Police Station of the San Tin Constituency By-election started at 7:30 a.m. and ended at 10:30 p.m. on the polling day. The polling hours for the DPSs at the penal institutions ran from 9:00 a.m. to 4:00 p.m. The CEO announced the polling hours of the San Tin Constituency By-election by a Gazette notice published on 21 June 2019.

Logistical Arrangements

4.2 A central command centre was set up by the REO on the polling day to oversee the operation of the poll and to provide logistical support to staff in the polling stations. The centre was also tasked with the dissemination of statistical information such as the hourly voter turnout rates, the election results, and the number of complaints received. The centre operated at the Tun Yu School from 7:00 a.m. on the polling day until the announcement of the election results.

4.3 To ensure prompt response to telephone enquiries from the public about the eligibility to vote and general electoral arrangements, and to render assistance to polling staff in ascertaining the eligibility of electors on voting so as to enhance the smooth operation of polling

stations, an election enquiry hotline operating from 7:00 a.m. to 11:00 p.m. for use of the public and the polling staff was set up by the REO on the polling day at its office at the Kowloonbay International Trade and Exhibition Centre. The majority of enquiries received on the polling day were related to eligibility on voting. Besides, a media enquiry hotline was set up from 7:30 a.m. on the polling day until the announcement of the election result for handling media enquiries and disseminating relevant information of the By-election to the public through the media.

4.4 A complaints centre was set up at the REO office at the Harbour Centre to receive and handle election-related complaints. It was manned by staff of the EAC Secretariat and operated from 7:30 a.m. to 11:00 p.m. on the polling day.

4.5 At the district level, a district command centre, manned by staff of the Home Affairs Department, was set up at the Yuen Long District Office to serve as the contact point between the RO and the PROs. The PROs were responsible for keeping the RO and ARO informed of the significant events occurred at the polling stations, and assisted in handling election-related complaints. Under the direction of the district command centre, a district team would take immediate action against the unauthorised display of EAs and the conduct of illegal canvassing activities in or around the NCZs.

4.6 The Police rendered assistance in maintaining law and order

inside the NCZs, NSZs and the polling/counting stations. Police officers were also stationed at the OPSs at the Tun Yu School and St. Gabriel Kindergarten as well as the DPS at the Yuen Long Police Station to readily provide support to the PROs.

Turnout of Electors

4.7 Of the 9 208 registered electors of the San Tin Constituency, 1 945 cast their votes. The overall turnout rate was 21.12%. The hourly voter turnout rates of the By-election are shown in **Appendix II**.

Visit to Polling Stations

4.8 Mr Justice FUNG Wah Barnabas, the EAC Chairman, and Mr LUK Yee-shun Arthur and Professor CHEUNG Mui-ching Fanny, EAC Members, observed the poll of the San Tin Constituency By-election at different polling stations in the morning of the polling day. Mr Justice FUNG visited the OPS at the Tun Yu School while Mr LUK and Professor CHEUNG visited the OPS at the St. Gabriel Kindergarten. After that, Mr LUK and Professor CHEUNG met with Mr Justice FUNG at the Tun Yu School, and conducted a media briefing on the latest progress of the poll and answered questions from the media.

Section 5 – Setting-up of Counting Station

5.1 The poll at the OPS at the Tun Yu School and St. Gavriel Kindergarten as well as the DPS at the Yuen Long Police Station closed as scheduled at 10:30 p.m., while the poll at the DPSs at the five penal institutions closed at 4:00 p.m.

5.2 The PROs of the DPSs locked and sealed the ballot boxes at their stations in the presence of a police officer or an officer of the CSD after the close of poll. Then the ballot boxes were delivered by the PROs of the DPSs under police escort to the MCS at the Tun Yu School.

5.3 Regarding the OPSs at the Tun Yu School and St. Gavriel Kindergarten, after the close of poll, the PROs locked and sealed the ballot boxes in the presence of election/polling agents. At the same time, the polling staff displayed a notice at the entrance of each polling station, notifying the public of the close of poll and the closure of the polling station for its conversion into a counting station. The notice also contained the telephone number of the polling station concerned to facilitate communication between the candidates or their agents and the polling staff.

5.4 When the conversion of the polling stations into counting stations was nearing completion, the counting staff displayed another notice outside each counting station, announcing the approximate time when the counting station would be open for the public to observe the

count. The conversion of the two counting stations was completed within 30 to 35 minutes.

5.5 Mr Justice FUNG Wah Barnabas, the EAC Chairman, and Mr Arthur LUK and Professor Fanny CHEUNG, EAC Members were present at the polling stations at the Tun Yu School and St. Gavriel Kindergarten respectively to observe the conversion. They were satisfied that the conversion process as a whole was smoothly completed.

Section 6 – The Count

Start of the Count

6.1 At 11:00 p.m. and 11:05 p.m. on the polling day, the counting stations at the Tun Yu School and St. Gavriel Kindergarten were open respectively for admission of the public and the media to observe the count. In the presence of candidates and their agents, the PROs and DPROs/APROs put the locked and sealed ballot boxes onto the counting tables. The PROs then unsealed the ballot boxes. At the MCS at the Tun Yu School, the first unsealed ballot box was jointly emptied by Mr Justice FUNG Wah Barnabas, the EAC Chairman and the PRO concerned. The PRO then unsealed the ballot box received from each DPS, counted the numbers of ballot papers contained therein and verified the numbers against the ballot paper accounts of the respective DPSs, and then mixed the ballot papers with those of the polling station at the Tun Yu School before starting the count. Regarding the dominant counting station at the St. Gavriel Kindergarten, Mr Arthur LUK and Professor Fanny CHEUNG, EAC Members, and the PRO concerned jointly emptied the unsealed ballot box. The count then commenced immediately.

Invalid and Questionable Ballot Papers

6.2 Out of the 1 945 ballot papers issued by all the polling stations, 27 ballot papers were considered to be clearly invalid. These invalid

ballot papers were not counted in accordance with section 78 of the EAC (EP) (DC) Reg.

6.3 In addition, 31 ballot papers were identified as questionable ballot papers. In the presence of the candidates and/or their agents, the PROs, with the assistance of the AROs (Legal) whenever required, carefully examined the questionable ballot papers to determine their validity. A total of 18 questionable ballot papers were ruled valid by the PROs and were counted. The remaining 13 questionable ballot papers were ruled invalid by the PROs and were not counted. Overall speaking, the total number of ballot papers in the ballot boxes that were not counted (including ballot papers that were clearly invalid and those determined by PROs as invalid) was 40. A summary of the ballot papers concerned is in **Appendix III**.

Election Result

6.4 Upon completion of the count, each PRO verified the number of ballot papers counted at the counting station with the ballot paper account(s). The figures were found tallied. Each PRO made known the counting results to the candidates and/or their agents who were present at the counting zone, and received no request for re-count. The PRO of the MCS at the Tun Yu School reported the counting results to the PRO of the dominant counting station at the St. Gavriel Kindergarten through the Statistical Information Centre. After consolidating the counting results of the two counting stations, the PRO of the dominant

counting station informed the candidates and/or their agents present of the counting results and reported the overall counting results to the RO who was at the MCS.

6.5 As there was no request for re-count, the RO declared the election result at 12:02 a.m. on 15 July 2019: Mr MAN Ka-koy was elected with 1 340 valid votes, representing 70.34% of the total number of 1 905 valid votes cast. The number of votes given to the other candidate, Mr MAN Ka-ho Donald, was 565. The result of the By-election was published in the Gazette on 19 July 2019 and is now reproduced in **Appendix IV**.

Section 7 – Complaints

Complaints-handling Period

7.1 The complaints-handling period for the By-election started from the commencement of the nomination period on 28 May 2019 and ended on 28 August 2019 (i.e. 45 days after the polling day). During the complaints-handling period, a total of five different parties were designated for handling and processing complaints. They were the EAC, the RO, the Police, the ICAC and the PROs (who discharged duties on the polling day only). Complainants could lodge their complaints with any of the above parties.

7.2 As at the end of the complaints-handling period, a total of 7 complaints were directly received from the public by the aforesaid five parties, including 2 complaints received on the polling day. The majority of these complaints concerned the unauthorised display of EAs. A breakdown of the complaints received during the complaints-handling period by the receiving parties and their nature is shown in **Appendix V**.

Complaints Received on the Polling Day

7.3 2 complaints were received by the PROs on the polling day. They were about eligibility to vote and suspected leakage of personal data. A breakdown of the complaints received on the polling day and their nature is shown in **Appendix VI**.

Outcome of Investigation

7.4 Of the 7 complaints received during the complaints-handling period, 2 were found substantiated, 2 unsubstantiated, 1 no further action required and 2 still under investigation.

Section 8 – Review and Recommendations

8.1 The EAC considers that the By-election was conducted in an open, fair and honest manner, and is generally satisfied with the electoral arrangements. In line with the established practice, the EAC has conducted a comprehensive review of the electoral procedures and arrangements for the By-election with a view to improving the arrangements of future elections. The EAC's review findings and the related recommendations are set out in the ensuing paragraphs.

The Arrangement of Announcing Election Results at the Dominant Counting Station

8.2 According to section 31(1B) of the EAC (EP) (DC) Reg, if two or more counting stations have been designated for a constituency, the CEO must designate the polling station at which the largest number of electors are to vote as the dominant counting station for the constituency concerned. Section 80B(8) and (11) of the aforesaid regulation stipulate that after the PRO of the dominant counting station has been notified of the results of the counting of votes of all the counting stations for the constituency, he/she must make known the results to the candidates or their election agents who are present at the dominant counting station. If a candidate or his/her election agent wishes to request for re-count of all votes of all counting stations for the entire constituency, such request must be made to the PRO of the dominant counting station. The PRO concerned would inform the relevant parties who are present at the

dominant counting station of all the re-count results. Besides, section 41(4) of the DCO and section 82(3) of the EAC (EP) (DC) Reg stipulate that as soon as practicable after determining the result of the election, the RO must publicly declare the candidate, who was successful at the election, as elected and display a notice of the result of the election prominently in a place outside that RO's office. However, there is no legislative requirement regarding the venue for the RO to announce the election result. Based on the past DC by-elections, candidates usually stayed at the dominant counting stations and the ROs normally announced the election results at the dominant counting stations. Therefore, more media and members of the public would observe the count and wait for the election results at the dominant counting stations.

8.3 As mentioned in paragraph 3.2 above, there are two counting stations for the San Tin Constituency By-election. Therefore, pursuant to the aforementioned regulation, the St. Gabriel Kindergarten which was assigned with a larger number of electors was designated as the dominant counting station, responsible for co-ordinating the counting results of the two counting stations. Having considered that the St. Gabriel Kindergarten was relatively smaller in area with limited space for the media and members of the public to observe the count, to prevent overcrowding in the counting station, the REO has arranged the RO to announce the election result at the more spacious counting station at the Tun Yu School instead with a view to ensuring that sufficient space could be provided for the media and members of the public to observe the count and wait for the election result. Such arrangement was confirmed viable

by the legal advisor.

8.4 As the arrangement of venue for announcing the election result of this By-election differed from that for past by-elections, the REO specifically wrote to the two candidates before the polling day to inform them that the RO would announce the result of this By-election at the more spacious counting station at the Tun Yu School. The candidates were also reminded that if they planned to stay at the counting station at the Tun Yu School to observe the count until the announcement of the election result, they could arrange their election agents to observe the count and wait for the counting results at the dominant counting station at the St. Gavriel Kindergarten in case they might need to request the PRO of that counting station for re-count of the votes of the entire San Tin Constituency.

8.5 **Recommendation:** As the election result of the By-election was arranged for announcement at the more spacious counting station at the Tun Yu School, most of the media and members of the public chose to observe the count and wait for the RO's announcement of election result thereat. The EAC is pleased to note that the above arrangement has run smoothly and has effectively tackled the problem of insufficient space for the media and members of the public to observe the count due to the small area of the dominant counting station. The EAC is of the view that apart from making continued efforts to identify more spacious and convenient venues as polling and counting stations, when necessary, the REO should consider adopting the said arrangement of this By-election in

future elections so as to facilitate the RO to announce the election result at a more spacious counting station.

Section 9 – Acknowledgement

9.1 The smooth conclusion of the By-election was attributable to the dedicated and concerted efforts of all parties involved.

9.2 The EAC would like to thank the following government bureaux and departments for their support and assistance:

Agriculture, Fisheries and Conservation Department

Civil Aid Service

Constitutional and Mainland Affairs Bureau

Correctional Services Department

Customs and Excise Department

Department of Justice

Drainage Services Department

Electrical and Mechanical Services Department

Food and Environmental Hygiene Department

Government Logistics Department

Home Affairs Department

Hong Kong Observatory

Hong Kong Police Force

Hongkong Post

Immigration Department

Independent Commission Against Corruption

Lands Department

Leisure and Cultural Services Department

Marine Department

Official Receiver's Office

Social Welfare Department

9.3 The EAC is grateful for the efforts of all government officers serving as the RO, AROs, PROs, DPROs, APROs and those who assisted in performing the polling and counting duties, and the Barrister-at-law serving on the NAC(DC) in the By-election.

9.4 The EAC is also thankful to the CSD, the Police and other LEAs for their assistance to the REO in making the necessary arrangements to facilitate the voting by registered electors who were imprisoned, remanded or detained on the polling day.

9.5 The EAC would also like to thank the media who helped enhance the transparency of the By-election by giving it wide coverage.

9.6 Finally, the EAC would like to express its appreciation to the electors who turned up to cast their votes and all those who rendered support or assistance in ensuring compliance with the electoral legislation and the Guidelines in the By-election.

Section 10 – Looking Forward

10.1 The EAC remains committed to fulfilling the mission of safeguarding the fairness and integrity of public elections in Hong Kong. It will make continued efforts to keep a vigilant watch on every election to ensure openness, fairness and honesty. The EAC welcomes positive and constructive comments to bring about improvements to the arrangements for future elections.

10.2 The EAC recommends that this report be made public, at a time the Chief Executive thinks appropriate, so that the public may be kept posted as to how the EAC conducted and supervised the By-election.

APPENDICES

2019 Yuen Long District Council By-election

Areas of the Constituencies

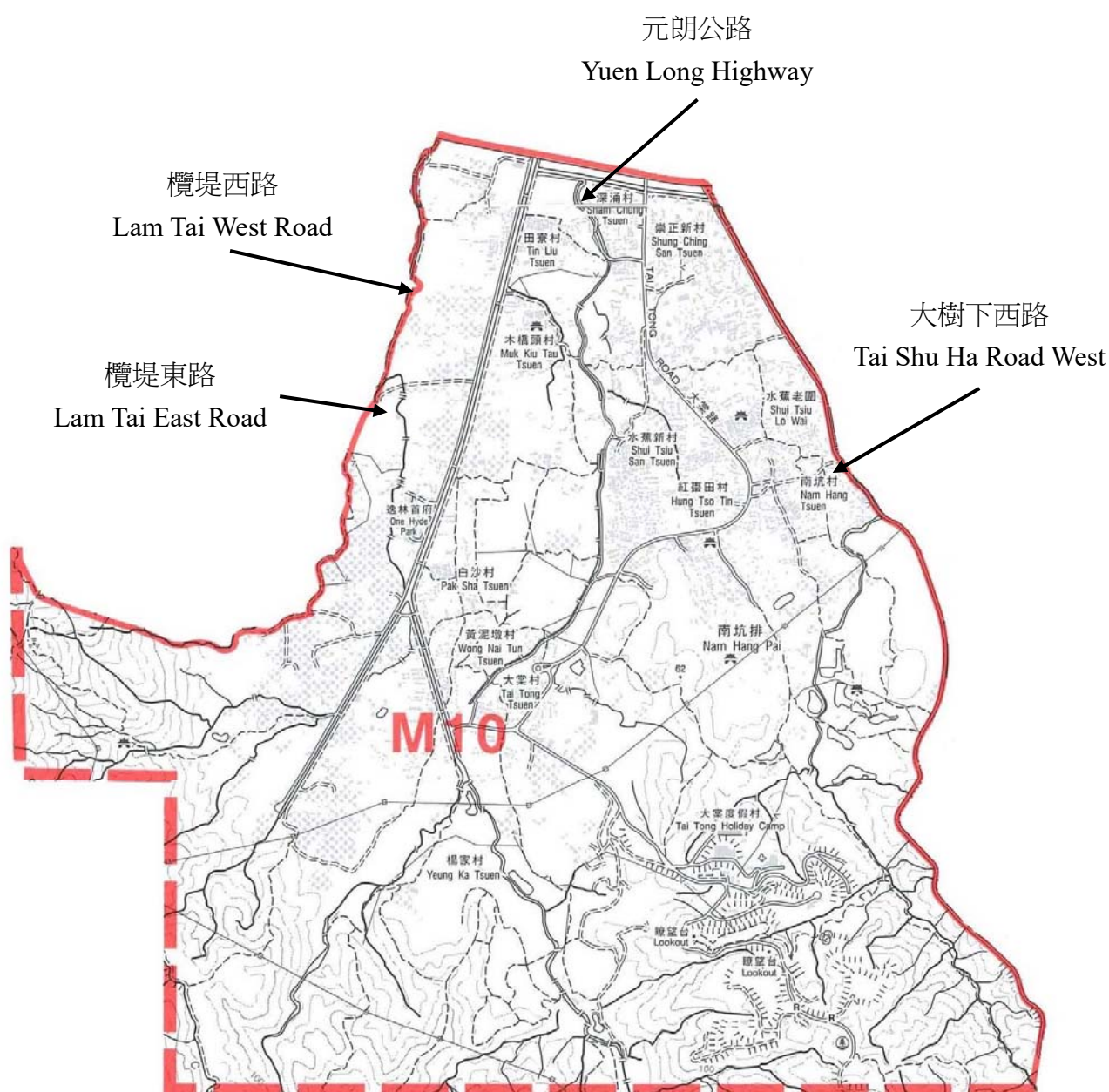
(A) San Tin Constituency



2019 Yuen Long District Council By-election

Areas of the Constituencies

(B) Shap Pat Heung West Constituency



2019 Yuen Long District Council By-election**Hourly Voter Turnout****San Tin Constituency**

Time (as at)	Cumulative Voter Turnout	Cumulative Turnout Rate (%)
08:30	52	0.56%
09:30	143	1.55%
10:30	307	3.33%
11:30	507	5.51%
12:30	680	7.38%
13:30	835	9.07%
14:30	947	10.28%
15:30	1 068	11.60%
16:30	1 195	12.98%
17:30	1 327	14.41%
18:30	1 448	15.73%
19:30	1 571	17.06%
20:30	1 697	18.43%
21:30	1 809	19.65%
22:30	1 945	21.12%

Remarks: The voter turnout figures are for reference only.

2019 Yuen Long District Council By-election**Summary of Ballot Papers in Ballot Boxes that were Not Counted****San Tin Constituency**

Invalid Ballot Papers in Ballot Boxes that were Not Counted	Number of Ballot Papers
Unmarked	14
Containing votes for more than one candidate	13
With writing or mark by which the elector can possibly be identified	1
Void for uncertainty	12
Total	40

2019 Yuen Long District Council By-election**Result of Election****San Tin Constituency**

Candidate Number	Candidate Name	Number of Votes Obtained	Result of Election
1	MAN KA KOY	1 340	Elected
2	MAN KA HO DONALD	565	

2019 Yuen Long District Council By-election**Breakdown of Complaint Cases Received
during the Complaints-handling Period***(from 28 May 2019 to 28 August 2019)*

Nature		Received by					Total no. of cases
		Electoral Affairs Commission	Returning Officer	Police	ICAC	Presiding Officers	
1	Election advertisements	-	3	-	-	-	3
2	Entitlement to vote	-	-	-	-	1	1
3	Personal data privacy	-	-	-	-	1	1
4	Others	1	1	-	-	-	2
Total		1	4	-	-	2	7

2019 Yuen Long District Council By-election**Breakdown of Complaint Cases Received
on the Polling Day**

Nature		Received by					Total no. of cases
		Electoral Affairs Commission	Returning Officer	Police	ICAC	Presiding Officers	
1	Entitlement to vote	-	-	-	-	1	1
2	Personal data privacy	-	-	-	-	1	1
Total		-	-	-	-	2	2