

## **Section 1 – Background**

### **Cause of the by-election**

1.1 A vacancy arose in the Hong Lok Yuen Constituency of the Tai Po District Council (“TPDC”) on 31 March 2007 upon the resignation of Mr MAN Chen-fai, an elected member of the constituency, who has been elected as the Chairman of the Tai Po Rural Committee and become an ex officio member of TPDC<sup>1</sup>. Pursuant to sections 10 and 26(b) of the District Councils Ordinance (Cap 547) (“DCO”), the Director of Home Affairs (“DHA”) declared the existence of the vacancy by a notice published in the Gazette on 13 April 2007.

1.2 Pursuant to section 33(1)(a) of the DCO, the Electoral Affairs Commission (“EAC” or “the Commission”) was required to arrange for a by-election to return a candidate to fill the vacancy.

### **The Constituency**

1.3 The Hong Lok Yuen Constituency is one of the 19 DC constituencies in the Tai Po District, with a registered electorate of 4,626. A map showing the boundary of the constituency is at **Appendix I**.

---

<sup>1</sup> Under section 10 of the DCO, if a person holding office as an elected member or appointed member of a District Council ("the first office") becomes entitled to hold office as an ex officio member of the same or another District Council ("the second office"), that person is taken to have resigned from the first office with effect immediately before the date on which the person commences to hold the second office.

**The polling day and the nomination period**

1.4 The Chief Electoral Officer (“CEO”) of the Registration and Electoral Office (“REO”) appointed Sunday, 10 June 2007 as the polling day for the by-election and specified the period from 25 April to 9 May 2007 (both dates inclusive) as the nomination period of the by-election by publishing a notice in the Gazette on 20 April 2007.

## **Section 2 – Appointments and Nominations**

### **Appointments**

2.1 Mr POON Tai-ping, Eddie, JP, District Officer (Tai Po) (“DO(TP)”) and Miss Vicky CHEUNG, Assistant District Officer (Tai Po) were appointed as the Returning Officer (“RO”) and the Assistant Returning Officer (“ARO”) respectively for the by-election. Their appointments were made by the EAC Chairman and published in the Gazette on 20 April 2007. Ms Dorothy CHENG, Senior Government Counsel of the Department of Justice (“D of J”) was appointed by the EAC Chairman as the ARO(Legal) for the by-election on 3 April 2007.

2.2 Mr LUI Kit-ling, Barrister-at-law, was appointed as the Nominations Advisory Committee (District Councils) (“NAC(DC)”) for the by-election to provide the RO with the necessary legal advice on the eligibility of the candidates being nominated. Mr LUI’s appointment, covering the period from 25 April to 15 May 2007 (both dates inclusive), was published in the Gazette on 20 April 2007.

### **Nominations**

2.3 By the close of the two-week nomination period on 9 May 2007, the RO received two nominations. The nominees were Messrs TANG Yau-fat and HO Kwok-keung. The nominations were verified by the RO as valid. The NAC(DC) had not received any request from the RO

for legal advice on the validity of the nominations. The names of all validly nominated candidates were published in the Gazette on 18 May 2007.

2.4 On 11 May 2007, 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 to allocate designated spots to them for the display of their EAs in the district. As a result of the lots drawing, Mr HO Kwok-keung and Mr TANG Yau-fat were allocated the candidate number 1 and 2 respectively. A total of 72 spots in the Tai Po District were designated for the display of EAs during the election period, and each candidate was equally allocated with 36 spots.

### **Briefing for the candidates**

2.5 A briefing session for the candidates and their agents, hosted by the EAC Chairman, was conducted on 14 May 2007 in the Conference Room of TPDC Secretariat. Both candidates and their agents were present at the briefing. The Chairman highlighted the major electoral arrangements, including the relevant provisions in the electoral legislation and guidelines governing election advertisements (“EAs”) and election expenses, for their attention. The Chairman encouraged them to disseminate publicity materials to electors by e-mails and on a household basis in order to reduce the use of paper. Details of these measures are set out in paragraph 3.9 below. The CEO, RO and representatives from the D of J, the Independent Commission Against Corruption (“ICAC”)

and the Hongkong Post also attended the briefing. They took the opportunity to brief the candidates and answer enquiries on subjects within their respective purview.

### **EAC Guidelines on election-related activities**

2.6 The revised guidelines issued for the by-election held on 23 October 2005 were used for this by-election.

## **Section 3 – Preparation Work**

### **Appointment and training of polling/counting staff**

3.1 As three polling-cum-counting stations had been set up for this by-election and having regard to the remote location of one of the venues, in addition to the REO staff, the staff of the Tai Po District Office (“TPDO”) were also appointed to take up the polling and counting duties. To ensure that the staff were competent in discharging their duties, a half-day briefing session on polling and counting duties including a mock-up session on counting work was conducted on 5 June 2007 to enable all the staff concerned to familiarise themselves with their duties.

### **The polling-cum-counting station**

3.2 As in the previous DC by-elections, both the poll and the count for the by-election were conducted at the same place. In view of the physical size of the Hong Lok Yuen Constituency, three polling-cum-counting stations were set up at Kai Chi School, Yuk Yin School and Hong Lok Yuen International School to facilitate the electors to cast their votes. The CEO designated the polling station at Kai Chi School as the dominant counting station, where the largest number of electors was to cast their votes and where the result of the election was to be announced. The designation of these places as the polling and counting stations was published in the Gazette on 18 May 2007.

3.3 Setting up arrangements for the polling stations were held in the afternoon on the day preceding the polling day. Due to the limitation of space in the venues, only the polling-cum-counting station at Kai Chi School could be partitioned into two parts, i.e. the polling area and the counting area. Conversion work was required in the Yuk Yin School and Hong Lok Yuen International School for setting up the counting area after the poll closed. Within the counting area, there was a counting zone, a seating area for the candidates and their agents, a press area and a public area where members of the public might stay and observe the count. Candidates and their election/counting agents were allowed to stand around the counting zone to observe the count from a close distance.

3.4 During the polling hours, the Presiding Officer (“PRO”) of each polling station, assisted by the Deputy PRO (“DPRO”) and / or Assistant PROs (“APROs”), was responsible for ensuring the smooth and efficient operation of the polling station and to work closely with the RO. Upon the commencement of the counting process, the PROs assumed the role of Counting Supervisors in overseeing the counting process. They were also responsible for determining the validity of questionable ballot papers, while the DPRO and / or APROs performed the duties of Assistant Counting Supervisors.

3.5 Outside each polling station, a No Canvassing Zone (“NCZ”) and a No Staying Zone (“NSZ”) were designated by the RO so that the

electors can have a free and safe passage to the station. A notice was put up at a conspicuous spot outside each station, notifying the public of the delineation of the NCZ and NSZ.

### **Other electoral arrangements**

3.6 Similar to the preceding by-elections, arrangements were made to address the public concern on the secrecy of the vote during the poll, including –

- (a) displaying prominent signs inside and outside the polling station to remind electors that it was an offence to use a mobile telephone inside the polling station;
- (b) the polling staff reminding each elector at the ballot paper issuing desk not to use mobile telephones;
- (c) not installing any curtain in front of the voting compartments so that the polling staff, the candidates and their agents could observe whether the elector was using a mobile telephone inside the voting compartment;
- (d) designating an enlarged restricted zone (around two metres) outside the voting compartments and not allowing any other person to stay in the zone, so that the elector's choice on the ballot paper would be prevented from being seen by other person; and



- (e) setting the table inside the voting compartment in such a position that would cause the body of the elector to block the marking from being visible to persons outside the voting compartment.

3.7 To avoid exposure of the elector's personal particulars shown on the registers at the ballot paper issuing desks, especially to the electors waiting in a queue, a restricted zone (around one metre) was delineated in front of each issuing desk and a specially designed cardboard stand was placed at the front edge of the desk to block the line of vision of anyone standing behind him/her.

### **Notification to electors**

3.8 In line with the established practices, the REO sent a poll card to each registered elector of the by-election on 23 May 2007 notifying him/her of the date, time and place of the poll. The poll card was sent together with other election-related materials, including a candidates' introductory leaflet, a guidance note on voting, a location map of the polling station assigned to the elector concerned, an appeal letter from the DO(TP) encouraging electors to exercise their voting rights and a leaflet on clean and fair elections issued by the ICAC. The introductory leaflet which included the candidates' election platform was also uploaded onto the REO's website for public browsing.

## **Reduction of paper consumption in the by-election**

3.9 To reduce paper consumption on election-related materials in the by-election, the REO had put in place the following arrangements on a trial basis –

- (a) similar to the DC by-elections held since June 2006, a revised layout of the candidates' introductory leaflet was adopted in which each candidate was allocated with the size of no more than a quarter of an A4 paper, as compared to the previous practice of allowing half an A4 size page;
- (b) similar to the DC by-elections held since October 2005, to encourage candidates to send their election-related publicity materials electronically to the electors, the REO had sent appeal letters to the electors of the Hong Lok Yuen Constituency beforehand inviting them to provide the REO with their e-mail addresses. A total of 268 e-mail addresses were thus collected for this particular by-election. All candidates were provided with a CD-ROM containing information of electors who had chosen to receive election-related publicity materials by e-mail (together with the addresses of all electors); and
- (c) to facilitate candidates to send election-related publicity materials on a household basis, the REO had allowed the candidates to choose between gum labels of the addresses

of all electors in the constituency (i) on household basis, or (ii) on individual basis. Of the two candidates of the by-election, one of them opted for the labels on household basis.

## **Publicity**

3.10 The REO had, on appropriate occasions, issued press releases covering the major events of the by-election which included the commencement and the close of the nomination period, the poll, the count and the visits of EAC members to the polling and counting stations. Besides, all relevant information on the by-election (including press releases, the hourly electors' turnout rate, election result, etc) was uploaded onto the REO's website for public information.

## **Contingency plan**

3.11 To cater for unforeseen situations in which the by-election might not be proceeded with as scheduled for one reason or another (such as inclement weather conditions), fall back arrangements were made with the venue management of the polling stations concerned to reserve them for polling on the following Sunday, i.e. 17 June 2007. Besides, extra stock of electoral equipment and materials (such as ballot boxes, ballot papers, furniture, electoral forms, etc) was put in reserve. Two vans were also provided to the polling stations to cater for any necessary transportation needs.

## **Section 4 – The Poll**

### **Polling hours**

4.1 The poll was scheduled from 7:30 am to 10:30 pm on Sunday, 10 June 2007. The CEO announced the polling hours of the by-election by a notice in the Gazette published on 18 May 2007.

### **Logistical arrangements**

4.2 A central command centre was set up for overseeing the operation of the poll and providing logistical support to the staff in the polling stations on the polling day. In addition, the centre also assisted in handling enquiries and complaints and collating statistical information on the hourly electors' turnout rate, election result, number and types of complaints received, etc. The centre operated at the REO office in Guardian House from 7:00 am on the polling day until 1:00 am on 11 June 2007. A press enquiry desk was set up from 7:30 am until the announcement of the election result to handle press enquiries and disseminate information to the public through the media at regular intervals. The election enquiry hotline operated from 7:00 am to 11:00 pm to handle general enquiries from electors and to provide information to the polling stations on the identity and eligibility of electors on the polling day.

4.3 A complaints centre was also set up in the REO office in Harbour Centre to receive and process election-related complaints lodged with the EAC direct from the public by phone, fax or e-mail and those referred to the EAC through other complaint-handling channels. It was manned by the staff of the Complaints Unit of the EAC secretariat and operated throughout the polling hours from 7:30 am to 10:30 pm on the polling day.

4.4 At the district level, a district command centre, manned by staff of the Home Affairs Department (“HAD”), was set up at the TPDO to serve as the contact point between the RO and the PROs. The PROs were responsible for keeping the RO and ARO informed of all significant events which occurred within the polling stations and for handling election-related complaints. Under the direction of the district command centre, a district team took action against unauthorised EAs and illegal canvassing activities within or around the NCZs and the polling stations.

4.5 The Hong Kong Police Force and Civil Aid Service (“CAS”) rendered support in maintaining law and order in the NCZs, NSZs and inside the polling-cum-counting stations.

### **Turnout of electors**

4.6 Out of the 4,626 registered electors for the Hong Lok Yuen Constituency, 1,424 turned up to cast their votes. The overall turnout

rate was 30.78%, which was 13.18% lower than the rate for this particular constituency in the 2003 DC ordinary election.

4.7 The turnout rates for the dominant polling station at Kai Chi School and the two polling stations at Yuk Yin School and Hong Lok Yuen International School were as follows -

	<b>Number of registered electors (a)</b>	<b>Total number of elector turnout (b)</b>	<b>Turnout Rate (b)/(a) x 100%</b>
Dominant Polling Station (Kai Chi School)	2,074	612	29.51%
Polling Station (Yuk Yin School)	1,078	438	40.63%
Polling Station (Hong Lok Yuen International School)	1,474	374	25.37%
<b>Total</b>	<b>4,626</b>	<b>1,424</b>	<b>30.78%</b>

A breakdown of the hourly turnout rate of electors in respect of this by-election is shown in **Appendix II**.

## **Visits**

4.8 Mr Justice PANG, EAC Chairman, and Mr Lawrence LOK, Member of the Commission, paid visits to the polling stations on the polling day. They first visited the polling stations at Kai Chi School, then Yuk Yin School and finally Hong Lok Yuen International School in the morning respectively. They concluded the visit by meeting the media at Hong Lok Yuen International School and expressing satisfaction with the smooth conduct of the poll for the by-election.

4.9 Mr Arthur HO, Deputy Secretary for Constitutional Affairs, also visited the polling stations on the polling day.

## **Section 5 – The Conversion**

5.1 The poll closed at 10:30 pm as scheduled. A notice was promptly displayed at the entrance of each station, notifying the public of the close of poll and the temporary closure of the stations to facilitate their conversion into counting stations. The telephone number of the APRO concerned was also shown on the notice for each station to facilitate communication between the candidates' agents and the station staff. Before the counting of the votes began, another notice was displayed outside each station, announcing the approximate time when the stations would be opened again for the public to observe the count.

5.2 The PROs sealed the ballot boxes in the presence of all candidates and their agents while the polling staff were preparing for the conversion of the station. The conversion process of all the polling stations was completed smoothly within 30 minutes.

5.3 Messrs Justice PANG and Lawrence LOK observed the conversion process in Yuk Yin School and Hong Lok Yuen International School respectively. They were satisfied with the smooth conduct of the conversion process at both stations.



## **Section 6 – The Count**

### **Start of the count**

6.1 Before 11:00 pm, the stations were re-opened for admission of the public including the media to observe the count. In the presence of all candidates and their agents, the PRO and DPRO/APROs of each station transferred the sealed ballot boxes to the counting table. At Kai Chi School, the dominant counting station, the PRO concerned unsealed the ballot box which was jointly emptied by Mr Justice PANG and Mr Arthur HO, Deputy Secretary for Constitutional Affairs. As for the counting station at Hong Lok Yuen International School, the unsealed ballot box was jointly emptied by the PRO concerned and Mr Lawrence LOK. As for the counting station at Yuk Yin School, the ballot box was emptied by the PRO. The count then commenced immediately.

### **Invalid and questionable ballot papers**

6.2 Out of 1,424 ballot papers cast into the ballot boxes, 4 ballot papers were unmarked and determined as invalid. These 4 ballot papers were not counted pursuant to section 78 of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) (“EAC (EP) (DC) Reg”). In addition, another 15 ballot papers were identified as questionable.

6.3 In the presence of the candidates and their agents, the PROs concerned, with the assistance of the ARO(Legal) (who was stationed at

Kai Chi School) where necessary, examined carefully the questionable ballot papers to determine their validity. All the questionable ballot papers were determined as valid and were thus accepted. An analysis of the ballot papers not counted is shown in **Appendix III**.

### **Election result**

6.4 Upon the completion of the count at the dominant counting station at Kai Chi School and the two counting stations at Yuk Yin School and Hong Lok Yuen International School, the PROs verified the number of ballot papers counted at their counting stations with their ballot paper accounts. The figures were found consistent. The PROs of the counting stations at Yuk Yin School and Hong Lok Yuen International School made known the result of the counting of votes to the candidates and their agents who were present at the counting zone respectively and reported the counting results to the PRO of the dominant counting station immediately. The PRO of the dominant counting station subsequently informed the RO of the results of the count conducted at both stations. There was no request for a re-count of votes at either of the counting stations from the candidates or their agents.

6.5 The count at all counting stations was completed at around 11:40 pm. At about 11:50 pm, the RO declared the election result: Mr TANG Yau-fat was elected with 1,046 valid votes, representing 73.66% of the total number of valid votes cast. The other candidate, Mr HO Kwok-keung received 374 votes. The election result for the Hong Lok

Yuen Constituency was published in the Gazette Extraordinary on 14 June 2007 and is now reproduced at **Appendix IV**.

### **Meeting the media**

6.6 The Chairman and member of the EAC met the press immediately after the announcement of the election result to conclude that the Commission was content with the polling-cum-counting arrangements in all stations and the efficient completion of the counting process. They were satisfied that the principle of fairness, openness and honesty was upheld throughout the process of this by-election. The Commission undertook to continue to review the election-related procedures and arrangements with a view to refining and improving them for public elections in future. The Chairman also took the opportunity to thank all parties concerned for the smooth conduct of the by-election.

## **Section 7 – Complaints**

### **Complaint-handling period**

7.1 The Commission took up the responsibility to handle complaints in relation to the by-election, instead of forming a Complaints Committee as in ordinary elections. Five different parties were responsible for processing the complaints received: the EAC, RO, Police, ICAC and, on the polling day, the PROs as well. Members of the public could lodge their complaints with any of these parties.

7.2 The period for receiving complaints commenced on 25 April 2007 when the nomination period began. It ended on 25 July 2007, i.e. 45 days after the polling day. During the complaint-handling period for this by-election, a total of 5 complaints were received from the public by the EAC, RO, and PROs. The majority of these complaint cases were about EAs. A breakdown of the complaints is set out in **Appendix V**.

### **Complaints received on the polling day**

7.3 The PRO of the polling station at Yuk Yin School received one complaint case on the polling day. No complaint was received by the REO complaints centre, RO, Police and ICAC.

7.4 The case received on the polling day was expeditiously handled and resolved on the spot. A breakdown of complaint case received on the polling day is shown in **Appendix VI**. This complaint is also included in Appendix V.

**Outcome of investigation**

7.5 Of the 5 complaints received during the complaint-handling period, 3 were found substantiated, 1 no further action and 1 withdrawn. Warnings had been issued to the complainees in substantiated cases.

## **Section 8 – Review and Recommendations**

8.1 After the by-election, the EAC conducted an overall review of all aspects of the by-election with a view to improving the conduct of future elections. The EAC found the polling and counting arrangement generally satisfactory. The areas that have been reviewed and the related recommendations are set out in the ensuing paragraphs.

### **(A) Reduction of paper consumption on election-related materials**

8.2 As a means to reduce paper consumption, the REO has continued to try out in this by-election the arrangements of sending out candidates' introductory leaflet with one quarter of an A4 page for each candidate, and collecting e-mail addresses from electors to facilitate candidates to send their publicity materials electronically. A new arrangement of providing candidates with the address labels of electors on a household basis has also been put on trial so that the candidates could send their publicity materials on a household basis. Details of the above arrangements are set out in paragraph 3.9 above.

8.3 **Recommendation:** Having regard to the success of the arrangement of sending out candidates' introductory leaflet with one quarter of an A4 page for each candidate which has been tried out in several DC by-elections, the EAC recommends that the arrangement

should continue in future DC ordinary and by-elections. As for the arrangement of collecting e-mail addresses from electors to facilitate candidates to send their publicity materials electronically, the EAC considers that it would be prudent to continue with the trial arrangement for the coming DC by-elections before coming to a view on whether the arrangement should be adopted on a long-term basis.

**(B) The polling-cum-counting arrangement**

8.4 As in the 2003 DC ordinary election and all the DC by-elections held from 2003 to 2006, the polling-cum-counting arrangement had worked smoothly and efficiently in this by-election. The counting of votes in all the stations took place within 30 minutes after the close of poll in the respective polling stations. The counting process was completed within 40 minutes. All parties concerned were very pleased with the efficiency of the arrangement.

8.5 **Recommendation:** The EAC recommends that the polling-cum-counting arrangement should continue in future DC ordinary elections and by-elections, as the arrangement had proved to be both cost-effective and efficient.

**(C) Enclosed counting table**

8.6 To avoid ballot papers falling off the counting table onto the floor during the process of emptying the ballot box, REO had

introduced a new arrangement in this by-election. The counting tables were surrounded by plastic strips so as to prevent ballot papers from falling onto the ground when emptying the ballot boxes.

8.7      **Recommendation:** Having regard to the effectiveness of this arrangement, the EAC recommends that this arrangement should be adopted in the future elections.



## **Section 9 – Acknowledgement**

9.1 The Commission wishes to express its gratitude towards the following government bureaux and departments for their valuable assistance rendered throughout the by-election: Constitutional Affairs Bureau, CAS, D of J, Electrical and Mechanical Services Department, Food and Environmental Hygiene Department, Leisure and Cultural Services Department, Government Logistics Department, Highways Department, HAD, Hong Kong Police Force, Hongkong Post, ICAC, Information Services Department, Lands Department, Office of the Government Chief Information Officer (of the Commerce, Industry and Technology Bureau) and Official Languages Division (of the Civil Service Bureau). Each and every one of them contributed to making the by-election a success.

9.2 The Commission is particularly grateful for the efforts of all REO staff, officers serving as RO, AROs, PROs, DPRO and APROs, and the legal practitioner serving on the NAC(DC) in this by-election.

9.3 The Commission wishes to thank the media for their wide coverage of the key events in relation to this by-election which has contributed much to enhance transparency of the by-election.

9.4 Last but not least, the Commission would like to express its appreciation to the electors who turned up to cast their vote and all those who complied with the electoral legislation and guidelines in the by-election.

## **Section 10 – Looking Forward**

10.1 The imminent task of the EAC is the Kowloon City DC (Hung Hom Bay Constituency) By-election, which will be held on 29 July 2007. Preparation work has already begun. The Commission will continue with its mission of ensuring that all public elections are conducted in an open, fair and honest manner. It will remain, as always, open to the views from the public on what measures should be taken to improve future electoral arrangements.

10.2 The Commission would like to recommend this report be made public, at a time the Chief Executive thinks fit, to enhance the transparency of the Commission's work in the conduct and supervision of the by-election under the EAC Ordinance (Cap 541).