

PROLOGUE

1. The 2019 District Council (“DC”) Ordinary Election has encountered unprecedented challenges. It was conducted under extremely difficult circumstances.

2. Before the DC election, there had been ongoing social events that had lasted for months undermining the public order and peace of Hong Kong, such as personal assaults on persons including the candidates and damage to properties. In the two weeks before the polling day, the situation further deteriorated as some trunk roads were blocked and public facilities were damaged. There were calls in society to postpone or even cancel the election.

3. According to the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”), the Electoral Affairs Commission (“EAC”) is conferred with the power and duty to conduct and supervise elections, acting through the Registration and Electoral Office (“REO”) for the practical arrangement for the elections. The EAC endeavours to ensure that the elections are held in an open, fair and honest manner. However, under the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) (“EAC (EP) (DC) Reg”), the EAC is empowered to postpone or adjourn the DC ordinary election as a whole, the poll and the count of individual constituency or polling station only in the occurrence of serious climatic condition or any material irregularity. In the case of the occurrence of riot, open violence or danger to public health or safety, the EAC is just empowered to **postpone or adjourn the poll and the count of individual constituency or polling station,**

while only the Chief Executive (“CE”) has the power to postpone or adjourn the ordinary election as a whole in accordance with the District Councils Ordinance (Cap 547) (“DCO”)¹. If the election, the poll or the count is to be postponed or adjourned, the election, poll or count must take place within 14 days after the scheduled polling day as stipulated under the DCO and the EAC (EP) (DC) Reg. Pursuant to the established contingency measures of the EAC, if a situation endangering the public safety of the electors or a serious climatic condition lasts for more than one and a half hours, the poll will be adjourned to the reserve polling day on the following Sunday. The relevant electoral ordinance and regulation do not provide that the election, poll or count once postponed or adjourned can be further postponed or adjourned.

4. The fifth term of the DCs expired on 31 December 2019. The existing legislation does not stipulate that the term of the current term of the DCs can be extended upon expiry. As far as DC by-elections are concerned, the DCO provides that a by-election can only be held in the event of a vacancy in the seat of a member, the death or disqualification of a candidate before the end of poll, or the death or disqualification of an elected candidate. Therefore, if the election, the poll or the count cannot be held within the stipulated 14 day-period, there is no mechanism in place for another postponement or adjournment or a by-election under the existing legislation.

¹ Please refer to paragraph 6.28 of Chapter 6 of the Report for the legislation in respect of the postponement or adjournment of the election, the poll or the count.

5. The EAC has given full consideration on whether to postpone the 2019 DC Ordinary Election. The EAC was of the view that even with the social turmoil at the relevant time, the situation in the entire society was not such that the election as a whole or the poll of an individual constituency was required to be postponed or adjourned as stipulated in the DCO or the EAC (EP) (DC) Reg. As with all public elections, the EAC must make every effort to ensure that the election procedure is fair and honest, and that the ballot is secret. As to the social order being challenged, the EAC is not a law enforcement agency (“LEA”) and it must rely on the LEAs to enforce the law against criminal offences and illegal and corrupt conducts. If any candidate or an elector considers that the social circumstances have caused any unfairness to the conduct of election activities, he/she may, in accordance with the DCO, question the result of the election by way of an election petition on the grounds that corrupt or illegal conduct was generally prevalent at or in connection with the election, or any material irregularity in relation to the polling or counting of votes².

6. The DCs play an important advisory role to the Government on matters affecting the well-being of the people in the district, the public facilities and services in the district. The EAC, pursuant to the power and duties conferred by the law, had given due consideration based on proportionality and proper balance, and endeavoured to conduct the election as scheduled to elect the members for the new term of the DCs.

² Please refer to paragraphs 12.21 and 12.22 of Chapter 12 of the Report for the legislation in respect of election petitions.

7. Prior to the election, the EAC had repeatedly called upon the public to cherish the fine election culture of Hong Kong so that the election could be conducted in a peaceful and safe environment. In order to enable the election be conducted smoothly so that the electors, candidates and polling staff can go to the polling stations to cast their votes, carry out election campaigns and perform the duties at polling stations safely on the polling day, the REO had stepped up efforts in many areas such as security and logistics arrangements, and convened meetings of the inter-bureau and inter-departmental Crisis Management Committee (“CMC”) before and on the polling day to ensure that the election could be held in safe circumstances.

8. The polling of this DC election was eventually concluded smoothly in a safe and orderly manner, with a record high turnout rate and number of voters doubling the last DC election. Such a high turnout under the then unsettling social situation has fully demonstrated that the public supported this election. The EAC is pleased to note that the poll and the count of this election was generally held in an open, honest, fair and safe manner (for the challenges faced in this election and the incidents during the course, please refer to Chapter 13 of this Report), and would like to thank all government organisations, parties from all sectors and the public for their assistance in the successful completion of this election.

PART ONE

PREFACE

CHAPTER 1

AN OVERVIEW

Section 1 – Introduction

1.1 The fifth term of the DCs with 431 elected members for a four-year term expired on 31 December 2019. An ordinary election was held on 24 November 2019 to return 452 elected members for the sixth term of four years from 1 January 2020 to 31 December 2023.

1.2 The Government has increased the number of elected seats for the 2019 DC Ordinary Election from 431 to 452 having regard to the population forecast of Hong Kong in mid-2019. The details of the arrangement are set out in paragraphs 2.4 to 2.6 in Chapter 2.

1.3 In this election, there was a record high of 1 090 validly nominated candidates running for the seats in 452 constituencies, and, unprecedentedly, none of the candidates was returned uncontested. Competition was the keenest in eight constituencies, namely Tsim Sha Tsui West, Shing Yan, Choi Kin, Hoi Chun, Hin Ka, Ma On Shan Town Centre, Wah Lai and Ching Fat Constituencies, each with five candidates competing for the respective seat.

1.4 The number of electors in the 2019 Final Register (“FR”) was 4 132 977, with an increase of 439 035 electors (11.89%) compared with that in 2015 (3 693 942). The number of electors turning up at the polls was also a record high

with a total of 2 943 842 electors cast their votes, representing 71.23% of the total electorate. Compared with the DC ordinary election held in 2015 (the voter turnout was 1 467 229 and the turnout rate was 47.01%), the voter turnout in this election was increased by 1 467 613 (100.01%) and the overall turnout rate was 24.22% higher.

Section 2 – Legislation Governing the Election

1.5 The supervision and conduct of the 2019 DC Ordinary Election were governed by the following ordinances:

- (a) the EACO, which empowers the EAC to perform its various functions in the supervision and conduct of the election;
- (b) the DCO, which provides the legal basis for conducting the election;
- (c) the Legislative Council Ordinance (Cap 542) (“LCO”), which lays down the qualification for registration as an elector; and
- (d) the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”), which prohibits election-related corrupt and illegal matters and is administered by the Independent Commission Against Corruption (“ICAC”).

1.6 The above ordinances are complemented by the following eight pieces of subsidiary legislation which stipulate the detailed procedures for the conduct of the

election:

- (a) the EAC (EP) (DC) Reg;
- (b) the Electoral Affairs Commission (Nominations Advisory Committees (District Councils)) Regulation (Cap 541E) (“EAC (NAC) (DC) Reg”);
- (c) the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”);
- (d) the District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap 547A);
- (e) the District Councils (Election Petition) Rules (Cap 547C);
- (f) the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M);
- (g) the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N); and
- (h) the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554C).

Section 3 - Legislative Amendments

1.7 After the 2015 DC Ordinary Election, the following ordinances and subsidiary legislations have been amended and are applicable to this election.

Electoral Legislation (Miscellaneous Amendments) (No. 2) Bill 2015

1.8 On 16 December 2015, the Government introduced the Electoral Legislation (Miscellaneous Amendments) (No. 2) Bill 2015 to the Legislative Council (“LegCo”) for making necessary technical amendments to various pieces of electoral legislation, including the alignment of the statutory deadlines for submitting the return and declaration of election expenses and election donations (“election return”) for all candidates in the same election. The Electoral Legislation (Miscellaneous Amendments) (No. 2) Bill 2015 was passed by the LegCo on 2 June 2016. The amendments came into operation on the date of publication in the Gazette (i.e. 10 June 2016).

Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) (Amendment) Regulation 2016

1.9 The Constitutional and Mainland Affairs Bureau (“CMAB”) issued the Consultation Document on Enhancement of Voter Registration System on 26 November 2015 to consult members of the public on a series of proposed measures to enhance the voter registration (“VR”) system. In the light of the outcomes of the public consultation, the EAC made amendments to three regulations under the EACO.

Among which, the following amendments made to the EAC (ROE) (GC) Reg are related to DC elections:

- (a) advancing the statutory deadline for applying for change of registration particulars to align it with the deadline for new VR (i.e. 2 May in a non-DC election year or 2 July in a DC election year)¹; and
- (b) using surface mail instead of registered post for sending inquiry letters and other VR notifications issued by the Electoral Registration Officer (“ERO”).

1.10 The Amendment Regulations were tabled at the LegCo on 27 January 2016 for negative vetting and came into operation on 18 March 2016.

Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2017

1.11 In the light of the incident that there were electors able to collect ballot paper by producing photocopy of their Hong Kong Permanent Identity Card (“HKIDs”) in the 2016 LegCo General Election, the EAC made five Amendment Regulations on 19 June 2017 to amend five regulations under the EACO and to implement the EAC’s recommendations in its Report on the 2016 LegCo General

¹ After the commencement of the Amendment Regulation, the EAC further amended the statutory deadline for applying for change of registration particulars vide the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2017, which came into operation on 1 February 2018. See paragraphs 1.13 and 1.14 below for details.

Election. Among them, the amendments made to the EAC (EP) (DC) Reg are as follows:

- (a) specifying that a Presiding Officer (“PRO”) must not give a ballot paper to a person unless the PRO is satisfied, by inspecting the original of that person’s identity document (typically his/her HKID), that he/she is the person registered in the FR;
- (b) putting in place a number of alternative measures to cater for the possibility that electors might not be able to produce the original of their identity documents, such that the PRO may still issue a ballot paper to an elector upon inspection of the document(s) set out below, which bears the holder’s name, photograph and HKID number, and is commonly accepted as proof of identity:
 - (i) a document issued by the Commissioner of Registration acknowledging that the elector has applied:
 - (A) to be registered under the Registration of Persons Ordinance (Cap 177); or
 - (B) for a new HKID under regulation 13 or 14 of the Registration of Persons Regulations (Cap 177A) and is awaiting its issuance;
 - (ii) a valid Hong Kong Special Administrative Region (“HKSAR”)

Passport issued to the elector under the Hong Kong Special Administrative Region Passport Ordinance (Cap 539);

- (iii) a valid identity book for a HKSAR seaman issued to the elector under regulation 3 of the Immigration Regulations (Cap 115A);
 - (iv) a valid document of identity for visa purposes issued to the elector under regulation 3 of the Immigration Regulations; or
 - (v) a document evidencing the elector's report to a police officer of the loss or destruction of his/her identity document (commonly referred to as "a memo of loss property"), along with the original of a valid passport or similar travel document (not being referred to in (i) to (iv) above) issued to him/her showing his/her name and photograph, and a copy of his/her HKID in paper form showing his/her name, photograph and HKID number; and
- (c) specifying that an elector applying for a ballot paper at a Dedicated Polling Station ("DPS") situated in a prison shall produce the document issued by the Commissioner of Correctional Services showing the elector's name, photograph and the prisoner registration number allocated by that Commissioner to the person for identification purposes.

1.12 The Amendment Regulations were tabled at the LegCo on 28 June 2017 for negative vetting and came into operation on 1 December 2017.

Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) (Amendment) Regulation 2017

1.13 As the majority of the views received during the public consultation mentioned in paragraph 1.9 above was in support of introducing the address proof requirement for VR, after balancing various factors such as facilitating VR and allowing adequate time for the public to adapt to the new requirement, the Government decided to take a progressive approach by first implementing the address proof requirement for change of registered principal residential address. As such, the EAC amended three regulations under the EACO. Among which, the following amendments made to the EAC (ROE) (GC) Reg relate to DC elections:

- (a) requiring electors to submit address proofs for applications for change of registered principal residential address; and
- (b) advancing the statutory deadline for change of registration particulars by 30 days to allow sufficient time for processing of applications (i.e. 2 April in a non-DC election year or 2 June in a DC election year).

1.14 The Amendment Regulations were tabled at the LegCo on 25 October 2017 for negative vetting and came into operation on 1 February 2018.

Electoral Legislation (Miscellaneous Amendments) Bill 2018

1.15 The Government introduced the Electoral Legislation (Miscellaneous

Amendments) Bill 2018 to the LegCo on 11 July 2018 with a view to enhancing the VR arrangements and the electoral procedures. The following amendments made by the Bill relate to DC elections:

- (a) increasing the maximum penalties for making false statements in VR;
- (b) specifying in the law that it is the duty of the person lodging a claim/an objection (“appellant”) to provide sufficient information about the case so that the Revising Officer (“RevO”), the ERO and the elector(s) being objected to in those objection cases will be informed of the grounds of the claim/objection;
- (c) providing an option for the RevO to directly dismiss the claim or objection case if the appellant or his/her representative does not attend the hearing concerned;
- (d) specifying in the law that the RevO may process incontrovertible claim and objection cases by written submissions;
- (e) revising the statutory deadline for forwarding notices to the RevO to 29 June (for a non-DC election year) or 29 August (for a DC election year), so as to allow more time for the RevO to process claims/objections, whether by hearings or written submissions;
- (f) for claim/objection cases handled by written submissions in lieu of hearing, setting a deadline for informing the appellant (and the elector

being objected to in an objection case) of the RevO's ruling, i.e. 7 July (for a non-DC election year) or 7 September (for a DC election year);

- (g) amending the relevant arrangement so that notices issued by the RevO to the appellants and the elector(s) being objected to (in the case of objections) shall be sent by surface mail instead of registered post;
- (h) including former and retired magistrates in the pool of eligible candidates for appointment as RevO;
- (i) introducing an exemption from the criminal liability under section 23(1) of the ECICO for a third party (other than a candidate and his/her election expense agents) publishing an election advertisement ("EA") on the Internet and the only election expenses thus incurred are merely electricity and/or Internet access charges; and
- (j) stipulating that a ballot paper with a vote recorded for a candidate deceased or disqualified should be treated as clearly invalid and not be counted so as to streamline the counting process.

1.16 The Electoral Legislation (Miscellaneous Amendments) Bill 2018 was passed by the LegCo on 16 January 2019. The amendments came into operation on the date of publication in the Gazette (i.e. 25 January 2019).

Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment)
Regulation 2018

1.17 In order to further refine the requirements relating to identity document the electors must produce in applying for ballot papers, the EAC made five Amendment Regulations on 1 August 2018 to amend five regulations under the EACO. Among which, the amendments made to the EAC (EP) (DC) Reg are as follows:

- (a) relaxing the document requirement in paragraph 1.11(b)(v) above, such that an elector would still be allowed to collect a ballot paper by producing the memo of lost property and the original of a valid passport or similar travel document showing his/her name and photograph, without presenting a copy of his/her HKID in paper form at the same time; and
- (b) to set out the identity document to be accepted in a clearer manner, i.e. HKIDs and the Certificates of Exemption issued by the Commissioner of Registration.

1.18 The Amendment Regulations were tabled at the LegCo on 10 October 2018 for negative vetting and came into operation on 10 December 2018.

District Councils Ordinance (Amendment of Schedule 7) Order 2019 and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2019

1.19 On 8 May 2019, the Government introduced the District Councils Ordinance (Amendment of Schedule 7) Order 2019 and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2019 to the LegCo for negative vetting, proposing that, starting from the 2019 DC Ordinary Election, the subsidy rate of financial assistance scheme for eligible candidates of a DC election be increased from \$14 per vote to \$15 per vote². In addition, it was proposed that the maximum amount of election expenses that could be incurred by a candidate in the DC election be increased from \$63,100 to \$68,800.

1.20 The District Councils Ordinance (Amendment of Schedule 7) Order 2019 and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2019 passed the negative vetting procedure of the LegCo on 5 June 2019 and came into operation on 28 June 2019.

² Under the existing scheme, a candidate standing in a DC election who gets elected or who has received 5% or more valid votes cast in the constituency concerned will be eligible for financial assistance. The amount payable would be the lowest of the following –

- (a) the amount obtained by multiplying the specified rate by the total number of valid votes cast for the candidate (if the election is contested) or 50% of the number of registered electors for the constituency concerned (if the election is uncontested);
- (b) 50% of the election expenses limit; and
- (c) the declared election expenses of the candidate.

Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2019

1.21 Having regard to the increasing concern about the protection of personal data of the candidates in public elections, the EAC amended two regulations under the EACO on 14 October 2019. Among which, the amendments made to the EAC (EP) (DC) Reg are as follows:

- (a) amending the relevant provision on the publication of the notice of valid nominations in the Gazette by replacing the requirement of disclosing the “principal residential address” of the validly nominated candidates with “address” so that candidates can be given the flexibility to disclose an address that they prefer;
- (b) amending the relevant provision on the information to be provided in nomination forms by replacing the requirement of providing the “principal residential address” of the candidates with “address”; and
- (c) removing the legislative provisions on printing of the principal residential address of the candidates on ballot papers.

1.22 The Amendment Regulations were published in the Gazette on 18 October 2019 and tabled at LegCo on 23 October 2019 for negative vetting. The Electoral Affairs Commission (Electoral Procedure) (District Council) (Amendment) Regulation 2019 came into operation on the date of the publication in the Gazette (i.e. 18 October 2019), so that the notice of valid nominations in the 2019 DC

Ordinary Election published by the Returning Officers (“ROs”) in the Gazette on 31 October 2019 stated only the address chosen by each validly nominated candidate. The LegCo completed the negative vetting procedure for the Amendment Regulations on 20 November 2019.

Electoral Legislation (Miscellaneous Amendments) Bill 2019

1.23 The Government introduced the Electoral Legislation (Miscellaneous Amendments) Bill 2019 to the LegCo on 22 March 2019 in order to refine the VR arrangement and the electoral procedures. Among which, the amendments relating to the DC elections include the following:

- (a) revising the requirements on thickness and size of each mail that may be sent free of postage by candidates such that each mail must not be larger than 165 mm x 245 mm in size and must not exceed 5 mm in thickness;
- (b) revising the limit in relation to relief for minor errors in election returns from \$500 to \$3,000; and
- (c) revising the threshold for submission of invoices and receipts giving particulars of the election expenses for the purpose of election return from \$100 to \$500.

1.24 The Electoral Legislation (Miscellaneous Amendments) Bill 2019 was passed by the LegCo on 28 November 2019. The amendments came into operation on the date of publication in the Gazette (i.e. 6 December 2019). As such, the new

requirements in relation to the relief for minor errors as well as the threshold for submission of invoices and receipts as respectively amended are applicable for the election returns submitted after the effective date of the Bill.

Section 4 – This Report

1.25 The EAC is required under section 8(1) of the EACO to submit a report on the election to the CE within three months of the conclusion of an election.

1.26 This report aims to give a comprehensive picture of how the EAC conducted and supervised the election at various stages. It gives a detailed account of the electoral preparatory work, the implementation of the electoral arrangement and handling of complaints as well as, having reviewed the effectiveness of the electoral arrangement and taken into account the experience gained from this election, puts forth the EAC's recommendations for improvements in future elections.

PART TWO

BEFORE THE POLLING DAY

CHAPTER 2

THE DELINEATION EXERCISE

2.1 Under section 4(a) of the EACO, one of the functions of the EAC is to consider or review the boundaries of DC constituencies for the purpose of making recommendations on the boundaries and names of constituencies for a DC ordinary election.

2.2 In accordance with section 18 of the EACO, the EAC is required to submit to the CE a report on its recommendations on the boundaries and names of DC Constituency Areas (“DCCAs”) at an interval of not more than 36 months from the preceding DC ordinary election. As the last DC ordinary election was held on 22 November 2015, the EAC was required to submit the report on the boundaries and names of DCCAs for the 2019 DC Ordinary Election to the CE on or before 21 November 2018.

2.3 Delineation of DCCAs for the 2019 DC Ordinary Election was conducted on the basis of the total number of elected seats for the election and the projected populations in the year in which the relevant election is to be held. As in the past, the Ad Hoc Subgroup (“AHSg”), set up specially for the purpose of the delineation exercise under Planning Department’s Working Group on Population Distribution Projections, was tasked to provide the EAC with the necessary projected population figures. To ensure that the projection could cater for the 2019 DC Ordinary Election, the AHSg was required to project the population distribution figures as at a date as close to the polling day as practicable. For this reason, the AHSg followed the

practice in the past delineation exercises and provided the EAC with projected population figures as at 30 June 2019, presuming that the DC Ordinary Election would be held in November 2019.

2.4 After undertaking a comprehensive review on the number of elected seats for each DC in the 18 Districts having regard to the population forecast of Hong Kong in mid-2019, the Government proposed to increase 21 elected seats in ten DCs for the 2019 DC Ordinary Election as follows:

- (a) one additional seat for each DC in Kowloon City, Yau Tsim Mong and Tsuen Wan;
- (b) two additional seats for each DC in Sham Shui Po, Kwai Ching, Tuen Mun and Sai Kung;
- (c) three additional seats for each DC in Kwun Tong and Sha Tin; and
- (d) four additional seats for Yuen Long DC.

2.5 The Government consulted the LegCo Panel on Constitutional Affairs on 17 July 2017 on the proposed addition of 21 elected seats for the 2019 DC Ordinary Election. A motion was moved at the LegCo meeting on 17 January 2018 for the approval of the District Councils Ordinance (Amendment of Schedule 3) Order 2017 to implement this proposal. The Order was approved by the LegCo on the same day and published in the Gazette on 19 January 2018.

2.6 Following the LegCo's approval of the Order as mentioned above, for the 2019 DC Ordinary Election, the total number of elected seats was increased by 21 from 431 to 452. Accordingly, the total number of DCCAs to be delineated by the EAC was increased to 452 as one DC member is to be elected from each DCCA.

2.7 Having ascertained the number of DCCAs to be delineated, the EAC drew up the provisional recommendations in accordance with the statutory criteria stipulated in section 20 of the EACO and the established working principles adopted by the EAC.

2.8 Pursuant to section 19 of the EACO, the EAC conducted a public consultation for a period of 30 days on its provisional recommendations from 23 July 2018 to 21 August 2018. The provisional recommendations together with the maps of DCCAs were made available for public inspection at the specified locations and the website of the EAC during the public consultation period. During this period, members of the public could submit written representations to the EAC to express their views on the provisional recommendations on the boundaries and names of the DCCAs. Two public forums were also held at the Lai Chi Kok Community Hall on 1 August 2018 and Sha Tin Lung Hang Estate Community Centre on 3 August 2018, where members of the public could submit their representations on the provisional recommendations orally.

2.9 During the consultation period, the EAC received a total of 6 285 written representations, of which five representations were withdrawn. Besides, a total of 263 persons turned up on the two days of the public forums, at which 65 oral representations on the provisional recommendations were received by the EAC.

Having considered the representations received and the information on geographical environment and projected population figures gathered from site visits and other Government departments concerned, the EAC adjusted the boundaries of 27 DCCAs and the names of 2 DCCAs in its provisional recommendations. The EAC finalised its recommendations and submitted the report to the CE on 20 November 2018 in accordance with the law. The report contained a detailed account of the EAC's work in the delineation exercise. The CE in Council accepted the recommendations in their entirety on 4 December 2018 and, pursuant to section 6 of the DCO, made the Declaration of Constituencies (District Councils) Order 2018, which became effective on 1 March 2019 after the LegCo completed the negative vetting in early January 2019. The delineation of DCCAs came into operation on 1 January 2020. The EAC published the whole set of the final maps of delineation DCCAs in March 2019 for public viewing.

CHAPTER 3

VOTER REGISTRATION

Section 1 – Eligibility to Vote and Qualification for Registration

3.1 To be eligible to vote in this election, a person is required to be registered as an elector for a geographical constituency (“GC”) under sections 24 and 27 to 31 of the LCO. His/Her name should appear on the FR of GC electors published on 25 September 2019. The registration arrangement for GC electors was conducted in accordance with the provisions of the EAC (ROE) (GC) Reg. To register as a GC elector, a person has to satisfy the following requirements:

- (a) in respect of the 2019 FR, he/she has to be aged 18 or above as at 25 September 2019;
- (b) he/she is a permanent resident of Hong Kong;
- (c) at the time of applying for registration, he/she ordinarily resides in Hong Kong and the residential address in his/her application for registration is his/her only or principal residence in Hong Kong;
- (d) he/she holds a valid identity document or has applied for a new identity document or replacement identity document; and
- (e) he/she is not disqualified from being registered as an elector.

3.2 Under the requirement of section 29 of the DCO, an elector is entitled to vote only once at the election and in the constituency for which he/she is registered.

Section 2 – The Address Proof Requirement

3.3 To enhance the accuracy of the particulars in the registers of electors, from 1 February 2018 onwards, electors who submit applications for change of registered address are required to submit address proofs issued in the last 3 months at the same time. For electors who are the authorised occupants of public rental housing under the Housing Department (“HD”) or registered residents in the tenancy of subsidised housing under the Hong Kong Housing Society (“HS”) applying for change of registered address, if the addresses in the tenancy records match the residential addresses provided by the electors, address proof requirement for such electors may be exempted.

Section 3 – The Voter Registration Campaign

3.4 To encourage more eligible persons to register as electors and remind registered electors to report to the REO any change of their particulars (including residential addresses) in a timely manner, the Government conducted a large-scale VR campaign from April 2019 to 25 August 2019. The VR campaign comprised three phases, disseminating to the public information and the statutory deadlines for change of VR particulars, application for new registration as well as submission of claim and objection. The VR campaign was coordinated by the CMAB with the joint efforts of the REO, Home Affairs Department (“HAD”), Information Services Department (“ISD”), Radio Television Hong Kong and the ICAC. In the light of

public concerns in recent years over the accuracy of registered particulars recorded in the registers of electors, the Government has stepped up publicity efforts in the VR campaign to impress upon the public the importance of providing true and accurate information for VR, and to remind registered electors to fulfill their civic responsibility by proactively updating the REO on any change of their registered residential addresses with address proofs. Publicity and promotional activities, such as announcements of public interest (“APIs”) broadcast on television and radio, advertisements in newspapers, at major Mass Transit Railway (“MTR”) stations and on public transport, as well as display of posters and banners were staged during the above-mentioned period. The details of these activities are set out below.

3.5 The kick-off ceremony of the VR campaign was held on 30 April 2019 to announce its commencement. Throughout the campaign, roving registration counters were set up at popular spots (such as major MTR stations and shopping malls) to help the public submit applications to register as electors or update their registration particulars.

3.6 To encourage the youth and other eligible persons to register as electors, registration counters were also set up at all Registration of Persons Offices and the Smart Identity Card Replacement Centres of the Immigration Department (“ImmD”). These counters serve to assist persons reaching the age of 18 in registering when they turned up at these offices to apply for or to collect their adult identity cards, or to replace their cards with new smart identity cards. Furthermore, VR assistants were also deployed to tertiary institutions to encourage eligible students to register as electors.

3.7 In addition, the REO sent appeal letters to households who had moved into new housing estates reminding them to report their changes in addresses. In case they had not yet registered as electors, they were invited to do so before the relevant statutory deadline (i.e. 2 July 2019).

3.8 As an on-going measure, the REO conducted cross-matching of particulars with the HD, HS and HAD with a view to assisting registered electors to update their registered addresses by comparing the records kept by these three Government departments/organisations.

3.9 The REO continued with the collaborative arrangement with the ImmD, and subject to the consent of the persons concerned, obtained their information on change of the residential addresses and urged them to update their registered residential addresses with address proofs.

3.10 To facilitate on-line registration, a VR website was set up by the REO. The hyperlink to access the dedicated VR website was provided on government websites as well as the websites frequented by members of the public.

3.11 To reduce paper consumption in elections, the REO set up a platform at the GovHK website to facilitate registered electors to provide or update their email addresses for candidates to send EAs to electors during elections. In addition, VR assistants stationed at the VR counters of Registration of Persons Offices, Smart Identity Card Replacement Centres and the roving registration counters strove to encourage registered electors and persons who wished to register as electors to provide their email addresses in their registration forms, so that the REO can contact

the electors when necessary and the electors concerned will be able to receive the EAs of validly nominated candidates.

3.12 About 526 000¹ application forms for new registration and report on change of particulars were received by the statutory deadline on 2 July 2019. The total number of electors in the 2019 FR reached a record high of 4 132 977, among which 392 601 were newly registered electors.

Section 4 – The Registers

3.13 Starting from the 2012 VR cycle, the REO has strengthened publicity efforts to remind the public that one must provide true and accurate information for registration as an elector and that it is important to keep one's registered information up-to-date, particularly the principal residential address. To enhance the accuracy and completeness of the electors' information in the registers, the REO undertook a number of checking measures including cross-matching of electors' particulars with other Government departments, inquiries on cases of undelivered poll cards for the previous election, verification checks on electors' registered residential addresses with the HD, HS and HAD, checks on registered addresses with multiple electors or multiple surnames of electors, random sample checks on the existing and newly registered electors, checks on incomplete or suspected non-residential addresses, checks on the registered addresses situated at demolished buildings or vacated buildings pending demolition, as well as conducting the statutory inquiry process.

¹ The statutory deadline for the application for change of registered particulars was 2 June 2019. The total number of applications for change of principal residential address received by the ERO was around 52 000.

3.14 Other than the above-mentioned checking measures, the REO has since the 2016 VR cycle further enhanced its efforts on cross-matching of the registered addresses with other Government departments to ensure the accuracy of the information on the registers of electors. These measures include:

- (a) strengthening the liaison with the Building Department for obtaining up-to-date information related to the list of demolished buildings or vacated buildings pending demolition;
- (b) communicating with the Urban Renewal Authority to obtain information on buildings whose acquisition process was completed, as well as those whose occupiers had already moved out; and
- (c) collaborating with the District Offices of the HAD to identify buildings vacated or pending demolition.

3.15 In the 2019 VR cycle, the REO's various checking measures covered about 1 620 000 electors. Based on the checking results, the REO had reasonable grounds to believe that the registered addresses of about 78 000 electors might not be their only or principal residential addresses. Inquiry letters were thus issued to the electors concerned in accordance with the relevant electoral legislation, asking them to confirm whether their registered addresses in the FR were their only or principal residential addresses. By the statutory deadline, the REO received replies from about 29 000 of these electors who either confirmed that their registered addresses were their only or principal residential addresses, or updated their registered addresses with appropriate address proofs. The remaining 49 000

electors who did not respond as required by the inquiry process were then listed on the omission list (“OL”). According to the electoral law, those electors who wished to reinstate their registration as electors must respond to the REO’s reminding letters by the statutory deadline on 25 August 2019, or lodge a claim for consideration by the RevO. Among those 49 000 electors, about 10 000 electors responded to the reminding letters by the statutory deadline, and with the approval of the RevO, their names were ultimately included in the FR published subsequently. As for the remaining 39 000 or so electors, they were not included in the FR due to their failure to provide the required information in accordance with the electoral law. Outcome of the checking revealed that inaccuracies found in registered addresses were mainly due to electors not updating their registered addresses in a timely manner after moving.

3.16 The REO published the Provisional Register (“PR”) on 1 August 2019. The PR contained the names and principal residential addresses of those electors who appeared on the previous FR with their particulars updated/amended by the REO from information reported by the electors concerned or obtained from other sources. The PR also included the personal particulars of those eligible applicants who had submitted application for registration on or before 2 July 2019 (i.e. the deadline for registration).

3.17 An OL was published in conjunction with the publication of the PR on 1 August 2019. The OL contained the particulars of persons who were formerly registered in the 2018 FR but were believed by the ERO on reasonable grounds to have been disqualified or ceased to be eligible for registration (for example, persons who had passed away, who had informed the ERO that they did not wish to be

registered, or who were known by the ERO to no longer live at their registered addresses but did not notify the ERO to update their registered particulars). As such, these persons were not included in the 2019 PR and were proposed to be omitted from the 2019 FR. The number of electors who were included in the OL as a result of not responding to the inquiry process mentioned above was 49 171 (after deducting about 380 electors who passed away during the inquiry process).

3.18 Both the PR and OL were made available at the REO and the designated Home Affairs Enquiry Centres of the HAD for public inspection from 1 to 25 August 2019, during which members of the public might lodge with the ERO objections against any entries in the PR. Any person whose name had not been recorded in the PR, whose particulars had not been accurately recorded or whose name had been put on the OL might also lodge claims with regard to their cases.

3.19 By the end of the public inspection period (i.e. 25 August 2019), the ERO received 288 notices of objection, involving 408 electors. Six objectors later withdrew some or all of their objections (involving a total of 20 electors) prior to the relevant hearings, while another one objector (involving one elector) was rejected by the RevO by written submissions in lieu of hearing. As such, the objection hearings involved a total of 387 electors in the end. Besides, the notices of claim received by the ERO involved a total of 79 electors. The REO, in accordance with the statutory procedures, subsequently forwarded these cases to four RevOs, who are judicial officers, for consideration and ruling.

3.20 The hearings by the RevOs with respect to the above objections lasted for seven days from 30 August to 11 September 2019. Objections against 111 electors

were approved, of which 109 would be omitted from the register of electors while the remaining 2 electors were required to update their registered addresses. For the remaining objections involving 277 electors (including the above-mentioned objection case which was dismissed by the RevO by written submissions in lieu of hearing), the RevOs ruled that their registration entries be maintained, including granting approval for the ERO to update or correct the registered addresses of 27 electors among them. Most of the electors were omitted on the grounds, as revealed by the completion of the investigation, that they no longer lived at their registered addresses, and the REO could not reach them and thus was unable to help them update their residential addresses.

3.21 Furthermore, the RevOs conducted hearings with respect to the claims regarding 79 electors within nine days from 22 August to 11 September 2019. After the hearings, 19 claims were accepted while 60 claims were dismissed. Moreover, 10 116 electors originally included in the OL informed the ERO of their updated principal residential addresses before the statutory deadline for lodging claims on 25 August 2019. As these persons satisfied all the eligibility criteria for registration as electors, they were included to the FR upon the approval of the RevOs. The remaining 39 055 electors in the OL were not included in the FR because they failed to provide the required information to the ERO in accordance with the electoral law.

3.22 The FR was published on 25 September 2019. An age and sex profile of these registered electors is at **Appendix I**.

Section 5 – Designation of Electors to Constituencies

3.23 Upon the acceptance of the EAC's recommendations on the delineation and the names of the DCCAs by the CE in Council on 4 December 2018, the Declaration of Constituencies (District Councils) Order 2018 was made in accordance with section 6 of the DCO. The negative vetting of the Order by the LegCo was completed in early 2019. The REO then proceeded to designate each of the registered electors to a constituency according to their registered residential addresses as shown in the FR.

3.24 About 235 000 registered electors were affected by the change of boundaries and/or names of the DCCAs. The REO sent a notice to each of these electors in May 2019 informing them of the new constituencies or the new names of the constituencies to which they were designated.

CHAPTER 4

THE GUIDELINES

Section 1 – The Preparatory Work

4.1 The EAC is empowered under section 6(1)(a) of the EACO to issue electoral guidelines to facilitate the conduct and supervision of an election. The purpose of producing the electoral guidelines is to ensure that all public elections are conducted in an open, fair and honest manner. The electoral guidelines give guidance in layman's language on compliance with the relevant electoral legislation. They also provide a code of conduct based on the principle of fairness and equality for conducting election-related activities.

4.2 The EAC has at all times made its best endeavours in refining the electoral arrangements. Before each ordinary election, the EAC will update the electoral guidelines. The revision is done on the basis of the existing guidelines, taking into account amendments to the electoral legislation, as well as the experience of previous elections. Before the issue of each set of the guidelines, a public consultation is conducted in accordance with the EACO during which representations on the proposed guidelines are invited from the public and all parties concerned. Taking into account the views received during the public consultation period, the guidelines are then finalised for issue to the public.

4.3 In November 2018, the EAC started updating the Guidelines on Election-related Activities in respect of the District Council Election ("Guidelines") applicable

for the 2019 DC Ordinary Election and published the proposed Guidelines for public consultation on 11 June 2019 for a period of 30 days up to 10 July 2019. The proposed Guidelines were prepared on the basis of the most recent version of the Guidelines (September 2015 edition), and by making reference to the changes in other electoral guidelines published between 2016 and 2018, the legislative amendments in respect of the DC elections as mentioned in section 3 of Chapter 1, the operational experiences gained in the past elections, as well as adjustments made in response to the related suggestions raised by members of the public and various parties.

Section 2 – The Proposed Guidelines

4.4 The major changes made in the proposed Guidelines, as compared with the Guidelines issued in September 2015, include the following:

(I) Changes caused by proposed amendments to electoral legislation

- (a) revising the total number of DCCAs for the 2019 DC Ordinary Election to 452;
- (b) specifying the use of surface mail instead of registered post, for sending inquiry letters and notifications relating to VR to electors;
- (c) specifying that the electors should submit address proofs for applications for change of registered principal residential address;
- (d) revising the statutory deadline for electors to report on change of principal particulars;

- (e) setting out clearly the fine and imprisonment that electors who knowingly or recklessly give false or misleading information for VR are liable to;
- (f) specifying that a person who lodges an objection or a claim of VR must provide sufficient information so as to inform the RevO of the grounds of the objection or claim and that the RevO may dismiss the objection or claim if the person does not attend the hearing;
- (g) setting out precisely the types of documents that an elector should produce before a ballot paper can be issued to him/her;
- (h) updating the category of invalid ballot papers to include the ballot paper on which a vote for a deceased or disqualified candidate is recorded and the name of, and other information relating to, the candidate are crossed out;
- (i) specifying that a person (other than a candidate and his/her election expense agents) who publishes an EA on the Internet is exempted from the relevant criminal liability under section 23(1) of the ECICO in accordance with section 23(1A) of the ECICO if the only election expenses incurred are either or both of electricity charges and charges necessary for accessing the Internet;

- (j) reflecting the new technical requirements on election mails that may be sent free of postage by candidates¹;
- (k) revising the maximum amount of election expenses which can be incurred by or on behalf of a candidate;
- (l) aligning the deadlines for submitting the election return for all candidates in the same election;
- (m) revising the threshold for submission of invoices and receipts giving particulars of the election expenses for the purpose of election return²;
- (n) revising the limit in relation to relief for minor errors in election returns³; and
- (o) revising the subsidy rate of financial assistance for the eligible candidates.

¹ The Government introduced to the LegCo the Electoral Legislation (Miscellaneous Amendments) Bill 2019 in March 2019 to, among others, make the amendments that each letter must not larger than 165 mm × 245 mm, instead of 175 mm × 245 mm, in size and must not exceed 5 mm in thickness. At the time when the proposed Guidelines were issued, the Bill was still subject to the passage by the LegCo. The Bill was eventually passed by the LegCo on 28 November 2019 (see paragraph 1.24 above).

² The Government introduced to the LegCo the Electoral Legislation (Miscellaneous Amendments) Bill 2019 in March 2019 to, among others, raise the threshold from \$100 to \$500. At the time when the proposed Guidelines were issued, the Bill was still subject to the passage by the LegCo. The Bill was eventually passed by the LegCo on 28 November 2019 (see paragraph 1.24 above).

³ The Government introduced to the LegCo the Electoral Legislation (Miscellaneous Amendments) Bill 2019 in March 2019 to, among others, raise the limit from \$500 to \$3,000. At the time when the proposed Guidelines were issued, the Bill was still subject to the passage by the LegCo. The Bill was eventually passed by the LegCo on 28 November 2019 (see paragraph 1.24 above).

(II) Changes made in the light of operational experiences and suggestions received from past elections

- (a) elaborating how the Confirmation Form assists the RO in the exercise of his/her statutory power to discharge his/her duties under the nomination procedures;
- (b) reminding any person or organisation publishing materials to appeal directly or indirectly to electors to vote or not to vote for a candidate or candidates of certain organisations to observe the legislative requirements for incurring election expenses on behalf of the candidates since the materials may be capable of being understood as referring to certain identified candidates;
- (c) reminding any person who intends to stand as a candidate at the election to remove all publicity materials published by him/her prior to the election period before he/she has been nominated as a candidate or has publicly declared an intention to run for the election. Otherwise, any such unremoved publicity material may be regarded as an EA;
- (d) revising the deadline for candidates to post corrective information in relation to EAs after the polling day;
- (e) reflecting the guidelines issued by the Office of the Privacy Commissioner for Personal Data to remind candidates to adopt security measures when transferring personal data of electors to election agents or other contractors for electioneering purpose;

- (f) reminding the office bearers of building organisations not to abuse their positions in the organisations to give unfair treatment to any candidate in the conduct of electioneering or canvassing activities in the buildings concerned, especially when the office bearers themselves are candidates in the election;
- (g) specifying that for the purpose of the principle of fair and equal treatment of candidates in relation to merely election broadcasting, media coverage and election forum, “candidate” refers to a person whose nomination form has been received by the relevant RO;
- (h) elaborating on the requirements of the fair and equal treatment principle for producing and publishing election-related programmes and reports by broadcasters licensed under the Broadcasting Ordinance (Cap 562) and the Telecommunications Ordinance (Cap 106) as well as the print media;
- (i) reminding candidates of the forbidden canvassing activities in the No Canvassing Zone (“NCZ”);
- (j) setting out clearly the statutory requirement under section 43 of the EAC (EP) (DC) Reg that canvassing activities are strictly prohibited on the storey at street level of all the buildings within the NCZ;
- (k) reminding candidates to remove the EAs on the windows or the bodywork of a public service vehicle before the polling day if it will pass through or be parked within the NCZ on the polling day;

- (l) reminding candidates to comply with the requirements under the Personal Data (Privacy) Ordinance (Cap 486) in handling the personal data of his/her supporters; and
- (m) setting out clearly the guidelines for seeking prior written consent from supporters when a candidate publishes EAs and live broadcast of electioneering activities through online platforms.

4.5 In accordance with section 6(2) of the EACO, the EAC conducted a 30-day public consultation from 11 June to 10 July 2019. As in the past, a “Message from the Chairman” enclosed in the proposed Guidelines highlighted the major changes set out in paragraph 4.4 above and explained the consultation mechanism, thereby providing a more focused basis for the public to give their views. During the consultation period, members of the public could submit their written representations on the proposed Guidelines to the EAC. A public forum was originally scheduled for the evening of 25 June 2019 at the Quarry Bay Community Hall to receive oral representations from the attendees. Given the social conflicts and protests in Hong Kong at the time, the EAC, after risk assessment, had decided to cancel the public forum for public safety and security considerations. Nevertheless, members of the public could still submit their written representations by post, fax or e-mail before the end of the public consultation period (i.e. on or before 10 July 2019). The EAC received about 180 600 written representations during the public consultation period.

Section 3 – Changes after Public Consultation

4.6 After considering all the representations received during the public consultation period, the EAC made a number of amendments to the proposed

Guidelines. The major ones include:

- (a) elaborating in greater detail the legislative requirements and the corresponding electoral arrangements in relation to nomination of candidates (including the Confirmation Form), including the following:
 - (i) a candidate nominated for the election must satisfy the requirements in two parts according to the subsisting law, namely (1) the eligibility to be nominated as a candidate and (2) the requirements to be complied with by a nominated candidate (including making a statutory declaration stating that he/she will uphold the Basic Law and pledge allegiance to the HKSAR). Otherwise, he/she is not a valid nominated candidate;
 - (ii) in accordance with section 104 of the EAC (EP) (DC) Reg, a person who makes a false statement in the nomination form commits a criminal offence. To ensure all candidates clearly understand the provisions of the Basic Law, and the legal requirements and responsibilities involved in making the declaration, the EAC has prepared a Confirmation Form for signature by the candidates since the 2016 LegCo General Election, and has adopted the same arrangement in the various elections and by-elections (including the DC by-elections) held thereafter;
 - (iii) the Confirmation Form is not part of the nomination form. It is an explanatory document reflecting the requirements under the subsisting law to remind candidates of the relevant legal provisions.

A candidate may sign the Confirmation Form on a voluntary basis to confirm that he/she has understood the legal requirements;

- (iv) according to the judgement on an election petition in relation to the 2016 LegCo General Election (HCAL 162/2016), the Court stated that “the EAC is entitled and empowered to issue the non-mandatory Confirmation Form”. Furthermore, the judgement handed down by the High Court on two judicial review cases in relation to the Confirmation Form (HCAL 133/2016 and HCAL 134/2016) reiterated that “it is lawful for the EAC to ask a candidate to submit the Confirmation Form together with the Nomination Form on voluntary basis (but not as a mandatory requirement)”;
- (v) whether the nomination of a candidate is valid or not is solely determined by the RO according to the legal requirements. The EAC is neither empowered nor involved in the making of such decision and would not provide any advice on the decision made by the RO. The EAC would not provide any guidelines to the RO for determining whether a candidate’s nomination is valid or not. The EAC would only make practical arrangements for the election according to the list of validly nominated candidates as determined by the RO. If any person is discontent with the decision of the RO, he/she may lodge an election petition to question the result of the election in accordance with the law;
- (vi) the EAC may appoint Nominations Advisory Committees (“NACs”) to provide advice to prospective candidates and the ROs as to

whether a prospective candidate is eligible to be, or is disqualified from being, nominated as a candidate at the DC ordinary elections. However, as stipulated in the law, the NACs are not empowered to advise on any matter relating to the requirements to be complied with by candidates under section 34 of the DCO (including the candidate's declaration to the effect that he/she will uphold the Basic Law and pledge allegiance to the HKSAR). Therefore, the advice provided by the NAC on a prospective candidate's eligibility to be nominated as a candidate does not indicate whether his/her nomination is valid or not; and

- (b) cancelling the revisions in paragraphs 4.4(I)(j), (m) and (n) above as the relevant legislative amendments⁴ were still subject to the passage by the LegCo at the time of the issue of the final Guidelines, and reminding candidates and their campaigners to pay attention to the development of the legislative amendments.

4.7 The EAC issued a press release on 6 September 2019 for the publication of the final Guidelines. The Guidelines were made available for public access at the EAC's website and for distribution at a number of venues, including the Home Affairs Enquiry Centres of District Offices and the REO. Each candidate of the election was provided with the Guidelines in CD-ROM format for reference at the time of his/her submission of the nomination form.

⁴ The Government introduced to the LegCo the Electoral Legislation (Miscellaneous Amendments) Bill 2019 in March 2019. At the time when the final Guidelines were issued, the Bill was still subject to the passage by the LegCo. The Bill was eventually passed by the LegCo on 28 November 2019 (see paragraph 1.24 above).

CHAPTER 5

APPOINTMENTS AND NOMINATIONS

Section 1 – Appointment of Nominations Advisory Committees

5.1 In accordance with the established practice in previous ordinary elections, free legal advice on the eligibility of the candidates for nomination (see below paragraph 5.6) is available to the ROs and candidates in DC ordinary elections when necessary. In the 2019 DC Ordinary Election, the EAC appointed seven legal professionals under the EAC (NAC) (DC) Reg and each of them would form an NAC to provide the prospective candidates and ROs with free legal advice, when necessary, on whether a prospective candidate is eligible to be nominated, or disqualified from being nominated (as provided in sections 20 and 21 of the DCO). Nevertheless, the NACs are not empowered to give advice on matters relating to the requirements stipulated in section 34 of the DCO (including the candidate's declaration to the effect that he/she will uphold the Basic Law and pledge allegiance to the HKSAR – see paragraph 5.7 below). Members of the NACs included Mr Wong Ching-yue, Senior Counsel, Mr Jin Pao, Senior Counsel, Mr Derek Chan, Senior Counsel, Mr Kevin Chan, Mr Lui Kit-ling, Mr Lewis Law and Mr Mike Lui, who were experienced members of the legal profession and not affiliated with any political organisations. Their appointment covered the period from 5 July to 21 October 2019 (both dates inclusive), and was published in the Gazette on 5 July 2019. During the above-mentioned appointment period, the NACs received 30 requests from prospective candidates for legal advice and no request was made by the ROs.

Section 2 – Appointment of and Briefing for Returning Officers

5.2 Each of District Officers of the 18 Districts was appointed by the EAC on 6 September 2019 as the ROs of all the constituencies under the respective District. Their appointment was published in the Gazette on the same day.

5.3 The EAC Chairman conducted a briefing session for all the ROs on 12 September 2019 at the Leighton Hill Community Hall. The briefing was also attended by the Chief Electoral Officer (“CEO”) and representatives from the Department of Justice (“DoJ”) and the ICAC. The EAC Chairman highlighted a number of the major electoral arrangements for the attention of the ROs, including the nomination procedures, appointment of agents, polling and counting arrangements, matters relating to the NCZ and no staying zone (“NSZ”), provisions in the legislation and the Guidelines governing EAs and election expenses, and handling of complaints. The representative from the ICAC also briefed the attendees on the major provisions of the ECICO and the procedures for referring complaints related to the ECICO to the ICAC.

Section 3 – Appointment of Assistant Returning Officers

5.4 To provide assistance to the ROs, the EAC appointed a total of 41 Assistant Returning Officers (“AROs”), who were either the Assistant District Officers, Chief Liaison Officers, Chief Executive Officers, Senior Liaison Officers and Senior Executive Officers of the HAD or District Offices of HAD. In addition, the EAC appointed 38 AROs (Legal) who would provide legal advice to the ROs and PROs during the count. These civil servants were all legally qualified persons, with the

majority of whom came from the DoJ and the rest from the Official Receiver's Office and the Legal Aid Department.

Section 4 – Nomination of Candidates

5.5 Candidates nominated for the DC election must satisfy two requirements, namely (1) being eligible to be nominated as a candidate and (2) compliance with all the stipulations (including making a statutory declaration). Otherwise, he/she is not a validly nominated candidate.

5.6 For the first part, the candidates must fulfil the nomination eligibility as set out in section 20 of the DCO and must not be disqualified from being nominated as a candidate or elected as an elected member under the circumstances stipulated in section 21 of the DCO.

5.7 The second part is mainly concerned with making a statutory declaration in the nomination form. Under the subsisting electoral laws, all candidates of CE elections, LegCo elections, DC elections and Rural Representative elections are required to make a declaration in the nomination form to the effect that they will uphold the Basic Law and pledge allegiance to the HKSAR. Otherwise, their nomination is invalid. Such requirement in relation to DC elections is stipulated in section 34(1)(b) of the DCO. In accordance with section 104 of the EAC (EP) (DC) Reg, a person who makes a false statement in the nomination form commits a criminal offence. Upon conviction, apart from being liable to the criminal sanction, he/she will be disqualified from holding office as a member of the DC in accordance with section 24(1)(d)(iv) of the DCO even in the event of being elected.

5.8 To ensure that all candidates clearly understand the provisions of the Basic Law when signing the declaration in the nomination form, and the legal requirements and responsibilities involved in making the declaration, the EAC has prepared a Confirmation Form for signature by the candidates since the 2016 LegCo General Election, and has adopted the arrangement in the various elections and by-elections held thereafter. It is not a new arrangement to use the Confirmation Form in this DC election.

5.9 The Confirmation Form is not part of the nomination form. It is an explanatory document reflecting the requirements under the subsisting law to remind candidates of the relevant legal provisions lest they do commit a criminal offence due to lack of understanding or awareness. Candidate may sign the Confirmation Form on a voluntary basis to confirm his/her understanding of the legal requirements. Regardless of whether the candidate has signed the Confirmation Form, he/she should be bona fide in signing the declaration in the nomination form. Otherwise, his/her nomination is invalid.

5.10 According to the judgment on an election petition in relation to the 2016 LegCo General Election (HCAL 162/2016), the Court stated that “the EAC is entitled and empowered to issue the non-mandatory Confirmation Form to assist the RO’s decision on the validity of a nomination. As such, the RO is also entitled to take into account a candidate’s failure to return the Confirmation Form in deciding the validity of the nomination”. Furthermore, the judgement handed down by the High Court on two judicial review cases in relation to the Confirmation Form (HCAL 133/2016 and HCAL 134/2016) reiterated that “it is lawful for the EAC to ask a candidate to submit the Confirmation Form together with the Nomination Form on

voluntary basis (but not as a mandatory requirement), and it is lawful for the RO to take that into account in determining the substantive validity of the nomination”.

5.11 Under the subsisting law, whether a candidate’s nomination is valid or not is solely determined by the RO. The EAC is neither empowered nor involved in the making of such decision and would not provide any advice to the RO. The RO may request a candidate in accordance with section 12(10) of the EAC (EP) (DC) Reg to provide additional information that he/she considers necessary to satisfy him/her that the candidate is eligible to be nominated as a candidate or that the nomination is valid. In accordance with section 19 of the EAC (EP) (DC) Reg, if an RO decides that a nomination is invalid, the RO must endorse on the nomination form his/her decision and the reason(s) for it, which will be made available for public inspection pursuant to section 14 of the EAC (EP) (DC) Reg. If any person is disqualified from being a candidate in an election, he/she may make an election petition to question the result of the election in accordance with section 49 of the DCO.

5.12 The nomination period ran from 4 to 17 October 2019, during which candidates were required to submit their nomination forms in person to the respective ROs. The two-week nomination period was published in the Gazette on 6 September 2019.

5.13 By the end of the nomination period, the ROs received a total of 1 104 nominations, of which 1 090 were confirmed valid by the ROs, 8 were ruled as invalid and the other 6 had been withdrawn before the close of nomination period. As regards the nominations which were ruled invalid, the ROs concerned had

endorsed on the nomination forms the decisions and the reasons for them in accordance with section 19 of the EAC (EP) (DC) Reg and make them available for public inspection under section 14 of the Regulation.

5.14 In view of the increasing concern on how to protect the personal data of candidates in the public elections, the EAC made the Electoral Affairs Commission (Electoral Procedure) (District Council) (Amendment) Regulation 2019 to replace the requirement of disclosing the “principal residential address” of validly nominated candidates with “address”¹ in the relevant notices of the election. After the amendment regulation took effect on the date of publication in the Gazette (i.e. 18 October 2019), a candidate might choose to disclose an address that he/she preferred, be it his/her office or business address, correspondence address, residential address or post office box number for publication in the relevant Gazette notices of the election. This could strike a balance between the need for media and members of the public to contact the candidates on one hand, and the protection of the privacy of candidates. The above-mentioned new arrangement was put in place when the list of validly nominated candidates of this election was published in the Gazette on 31 October 2019.

Section 5 – Provision of Extract of Final Registers to Candidates

5.15 Under section 38 of the EAC (EP) (DC) Reg, upon the submission of the nomination form to the RO by a candidate, the CEO should as far as practicable provide the candidate with an extract of the FR related to the constituency for which

¹ For details about the relevant legislative amendment, please refer to paragraphs 1.21 and 1.22 above.

the candidate is nominated. The FR must include the electors' names and their principal residential addresses according to section 19 of the EAC (ROE) (DC) Reg. Upon the commencement of the nomination period of this election, the REO had received successively from candidates or their election agents the "Notice for Collection of Electors' Information" together with the "Undertaking on the Use of Electors' Information" requesting for the information of electors for the purpose of conducting electioneering activities in this election. However, owing to the judicial review application filed by the Junior Police Officers' Association ("JPOA") on 15 October 2019 to the Court seeking for an urgent interim injunction to prohibit the ERO from making the FR available for public inspection and the provision of the particulars of electors to any person, the REO had temporarily suspended the release of the particulars of electors to candidates. The application made by the JPOA was dismissed by the Court of First Instance ("CFI") of the High Court after the hearing on 16 October 2019, and the JPOA lodged an appeal subsequently. The Court of Appeal of the High Court conducted a hearing on 21 October 2019, and issued an interim injunction order on the following day, prohibiting the REO from making the FR containing the name and the principal residential address of electors available for public inspection, as well as providing its extracts or any relevant particulars to the public until the conclusion of the litigation. Nevertheless, the REO might provide validly nominated candidates with the extracts of the FR in accordance with the EAC (EP) (DC) Reg. Therefore, pursuant to the Court's direction, on 24 October 2019, the REO began to provide the relevant extracts of the FR to the validly nominated candidates or their election agents who had submitted applications for provision of the information.

5.16 Regarding the litigation case mentioned in paragraph 5.15 above, the

Court conducted hearings on 16 and 17 December 2019 but has yet to hand down any ruling and judgement so far (as at 21 February 2020). The interim injunction order issued by the Court of Appeal of the High Court as mentioned in paragraph 5.15 above is still in force. The EAC and REO will closely monitor the progress and outcome of the case.

Section 6 – Briefing for Candidates

5.17 As an usual practice, the EAC organises a briefing session for all validly nominated candidates at every election with a view to providing the candidates with the important information about the election and reminding them of the essential requirements in the relevant electoral law and guidelines. On the same occasion, the RO conducts lots drawing to allocate to each candidate a candidate number shown on the ballot paper and a set of designated spots for display of EAs.

5.18 In this election, the EAC Chairman held a briefing session on 24 October 2019 at the AsiaWorld-Expo, Hong Kong International Airport, Lantau. The CEO, and representatives from the DoJ, ICAC and Hongkong Post also attended the briefing session. The briefing session was for candidates of the 18 Districts in Hong Kong and their agents, and aimed to introduce to them the electoral arrangements of the election and the points to note in relation to electioneering activities, with major topics included polling and counting arrangements, appointment and roles of various types of agents, requirements relating to EAs and election expenses, conduct of electioneering activities, avoidance of corruption and illegal practices, and the need to protect the privacy of electors with respect to personal data used for electioneering purpose.

5.19 In the evening of the briefing session, the lots drawing session was first conducted to determine the candidate numbers and allocation of the designated spots for the display of EAs. The briefing session was to follow. However, some people shouted loudly during the briefing, seriously disrupting the order of the event. The briefing session was eventually cancelled in the course. While the EAC always respects the freedom of expression, participants of the briefing should observe the rules of the venue in any case. The EAC had expressed deep regret and issued a press release on the day to strongly condemn the disruptive acts of the people concerned. Subsequently, the REO uploaded the information of the briefing to the election website for candidates' reference (please see paragraphs 13.25 to 13.29 below for details).

CHAPTER 6

POLLING AND COUNTING ARRANGEMENTS

Section 1 – Recruitment of Polling and Counting Staff

6.1 In line with the past public elections, civil servants were tasked to handle duties related to ballot papers in the polling stations. As a long-established mechanism, a recruitment exercise was launched to invite serving civil servants from various Government bureaux and departments to serve as electoral staff. Apart from this, the REO also arranged non-civil service contract staff to provide support on the polling day. As a polling-cum-counting arrangement was adopted, the civil servants recruited for this election would have to take up both polling and counting duties. During the exercise, some 26 000 applications were received and about 20 000 civil servants from various Government bureaux and departments were appointed as PROs, Deputy Presiding Officers (“DPROs”), Assistant Presiding Officers (“APROs”), Polling Officers (“POs”) and Polling Assistants (“PAs”) to carry out polling and counting duties.

6.2 Those who were appointed as PROs, DPROs and APROs were civil servants at officer rank or above while other polling staff were civil servants of other ranks. To avoid any actual or perceived conflict of interests, polling staff would typically not be deployed to work in the polling station(s) of the constituency in which they are registered electors. Each appointee was also required by the REO to disclose if he/she had any close relationship with any candidate, and if so, he or she would not be assigned to work in any polling station in the constituency

concerned. Besides, the appointees were required to sign an undertaking to observe the principle of political neutrality. These arrangements helped maintain the neutrality and independence of the electoral arrangements and avoid the perception of collusion which might compromise the fairness and integrity of the election.

Section 2 – Briefing for Presiding Officers

6.3 Given the important role played by PROs and DPROs in the election, the REO organised a briefing session on 30 October 2019, with the attendance of the EAC Chairman at the Queen Elizabeth Stadium in Wan Chai, for PROs and DPROs on the major provisions of the EAC (EP) (DC) Reg, quality polling service, complaints handling, crisis management and keys to team building. Veteran PROs were also invited to share their experience. In view of the social unrest affecting public order before the election, additional training on handling various emergency situations was included.

Section 3 – Training for Polling and Counting Staff

6.4 The REO organised 11 training sessions from late October to mid-November 2019 at the Queen Elizabeth Stadium and the Southorn Stadium in Wan Chai to equip the general polling staff with the necessary knowledge for discharging their duties. Topics included polling and counting procedures, contingency arrangements, and mock counting demonstration and exercise. Moreover, the REO organised 11 additional workshops at the Queen Elizabeth Stadium and the Southorn Stadium in Wan Chai for the polling staff tasked to perform statistical compilation duties in order to provide them with hands-on exercise in discharging the related

duties.

6.5 The REO also organised general briefings for all staff of the DPSs and the Ballot Paper Sorting Stations (“BPSSs”) on the operation of these stations. The general briefing for DPSs was conducted at the Lady Trench Training Centre on 29 October 2019, while that for BPSSs was conducted at the Kowloon Park Sports Centre on 7 November 2019.

Section 4 – Poll Cards

6.6 A poll card, together with the Introduction to Candidates, a location map of the polling station, a voting procedure guide with an attachment showing documents required for collecting ballot papers and an ICAC leaflet reminding electors of the importance of clean elections were mailed to every elector by post at least ten days before the polling day in accordance with section 34 of the EAC (EP) (DC) Reg. For the sake of environmental protection, these documents were printed, using environmentally friendly ink, on recycled paper or paper made from wood-pulp derived from sustainable forests.

Section 5 – Identifying Venues as Polling Stations

6.7 A total of 1 090 validly nominated candidates contested for 452 seats in this election. The REO had to identify suitable venues as polling-cum-counting stations for all constituencies, with at least one polling station for each constituency. The foremost consideration in selecting venues as polling stations included accessibility, availability of sufficient space for the purposes of both polling and

counting of votes, and convenience for electors with mobility difficulties or electors in wheelchairs. Where possible, the REO would select venues which were used previously as polling stations for the election.

6.8 Successful requisition of a suitable venue depends on whether the persons in charge is willing to facilitate. The process of identifying venues as polling stations was not smooth sailing. The staff of the REO encountered difficulties and setbacks when approaching the persons in charge of some private premises (including a number of schools and kindergartens) for permission to use their venues. The main reason for turning down the requests was prior commitments for the venues on the polling day. Besides, owing to the social situation in Hong Kong before the polling day, some persons in charge, although having agreed to lending their venues for use as polling stations previously, declined to make them available over concerns of the safety of the venues on the polling day. To allay their concerns, the REO explained to them the importance of the venues in the provision of polling stations for voting by electors and that public liability insurance had been taken out by the REO for all venues to be used as polling stations, in addition to the precautions adopted such as protective hoardings for venue facilities and extra security guards to help maintain public order. To ensure unimpeded and safe access to polling stations for electors, the REO changed the locations of five polling stations just days before the polling day having regard to risk assessments over the areas in question. A total of 615 venues were eventually secured by the REO to be designated as polling stations. The designations and subsequent changes were published in the Gazette on 12, 20 and 23 November 2019.

Section 6 – Polling Arrangements

Operation of Polling Stations

6.9 Of the 615 polling stations, ten were designated as small polling stations pursuant to section 31(1C) of the EAC (EP) (DC) Reg as they served an electorate of less than 200. These stations were used for polling only. Besides, a total of 585 polling stations were accessible to electors with mobility difficulties or electors in wheelchairs, representing approximately 95% of the total number of stations. There were 24 stations also designated as special polling stations at the same time to be used for voting by persons with mobility difficulties or persons in wheelchair who found it difficult to access the polling stations originally assigned to them.

6.10 On the day preceding the polling day, polling staff set up the designated venues to fit the functions of polling-cum-counting stations. Voting compartments, ballot boxes and ballot paper issuing desks were provided in all polling stations. Except for the ten small polling stations with less than 200 registered electors, special polling stations and 23 DPSs, all polling stations would be converted into counting stations immediately after the close of poll.

6.11 Outside each polling station, areas were designated by the RO as NCZs and NSZs to provide electors with hindrance-free access to the station. A notice was put up by ROs at a prominent spot at or near the station to notify members of the public of the designation of the NCZs and NSZs.

Polling Hours

6.12 Same as the past ordinary elections or by-elections, the poll started at 7:30 am on the polling day and ended at 10:30 pm on the same day, except for the DPSs set up in penal institutions which had shorter polling hours (as detailed in paragraph 6.14 below). The CEO published the polling hours of this election in the Gazette on 12 November 2019.

Design of Ballot Paper and Ballot Box

6.13 Same as the 2015 DC Ordinary Election, candidates were allowed to have their photographs and certain specified particulars relating to them printed on the ballot papers in the 2019 DC Ordinary Election. To ensure that there were sufficient ballot boxes for use in each polling station, the REO had carefully and thoroughly tested the capacity of ballot boxes.

Special Polling Arrangements for Imprisoned, Remanded and Detained Electors

Dedicated Polling Stations

6.14 To enable registered electors who were imprisoned or remanded by the Correctional Services Department (“CSD”) to vote on the polling day, the REO set up 20 DPSs inside the penal institutions of the CSD. Owing to security reasons, the poll at these DPSs was conducted from 9:00 am to 4:00 pm. Three DPSs were also set up at police stations for those registered electors who were remanded or detained by the LEAs other than the CSD on the polling day and had expressed their intention

to vote. Since the LEAs might arrest persons who happened to be registered electors at any time on the polling day, these DPSs were open from 7:30 am to 10:30 pm, as with ordinary polling stations. Each elector at the DPS was provided with an envelope bearing the name and the code of the relevant DCCA as well as the code of the DPS, which were marked by the polling staff upon the issue of the ballot paper. The elector should insert his/her marked ballot paper into the envelope before putting the envelope into the ballot box. This arrangement was to facilitate the subsequent sorting of the ballot paper in a BPSS while preserving the secrecy of votes.

6.15 The venue set-up of DPSs was basically the same as that of ordinary polling stations, except that some of the polling materials were specially designed for security reasons.

6.16 For imprisoned registered electors, the poll cards and other related electoral documents, such as the Introduction to Candidates, were mailed to the addresses of the penal institutions. To safeguard the privacy of imprisoned electors, the REO would not provide address labels with addresses of the penal institutions to candidates for sending election mails unless the electors had given consent.

Ballot Paper Sorting Stations

6.17 There was only one ballot box in a DPS for electors of all constituencies who had to vote at the DPS. The REO set up a BPSS at the Kowloon Park Sports Centre for the sorting of ballot papers cast at DPSs in CSD penal institutions according to each constituency before delivery to the respective main counting

stations (“MCSs”) through emergency depots. Another three BPSSs were set up at the Wan Chai Activities Centre, the Cheung Sha Wan Catholic Secondary School and the Toi Shan Association College for the sorting of ballot papers cast at DPSs in police stations according to each constituency before delivery to the respective MCSs. The ballot papers from DPSs were then mixed with those at the respective MCSs before counting so as to preserve the secrecy of votes. The whole process was open for observation by the public.

Section 7 – Counting Arrangements

6.18 Having regard to the success of the polling-cum-counting arrangement in DC ordinary elections since 2003, the EAC adopted the same arrangement in this election. This arrangement had proved to be more cost-effective than central or regional counting in terms of both manpower and financial resources, and the overall election results could be worked out faster. It could also reduce the risk involved in transporting ballot boxes from polling stations to counting stations.

6.19 With the exception of the small polling stations, special polling stations and DPSs, all polling stations would be converted into counting stations immediately after the close of poll. For a constituency with two or more counting stations, the counting station serving the largest number of electors was designated by the CEO as the dominant counting station according to section 31(1B) of the EAC (EP) (DC) Reg. The PRO of the dominant counting station would inform the candidates or their agents, if present, the counting result of the constituency. For a constituency with two or more polling stations of which at least one was a small polling station, special polling station or DPS, a station from the remaining station(s) was designated

by the CEO as the MCS according to section 31(1D) of the EAC (EP) (DC) Reg. The ballot papers cast at small polling stations, special polling stations or DPSs would be delivered to the MCS for counting all together.

6.20 To protect the secrecy of votes, the ballot papers cast at small polling stations, special polling stations and all DPSs (after sorting according to each DCCA at the BPSSs) were first delivered to the respective MCSs and mixed with other ballot papers therein before counting in accordance with section 76 of the EAC (EP) (DC) Reg.

6.21 An ARO (Legal) was stationed at each District Office to give advice to the PROs in the District and to maintain consistency in handling questionable ballot papers by these PROs. A candidate might appoint counting agents to observe the count and might raise objections to the PRO's decisions on the validity of questionable ballot papers. Samples of valid and invalid ballot papers were posted at each counting station to enhance transparency and ensure fair and consistent determination by the PROs.

6.22 To ensure openness and transparency of the counting process, candidates, their election agents, polling agents and counting agents were allowed to stay inside the polling stations to witness the conversion of the polling stations into counting stations after the close of poll. Candidates and their agents were then permitted to monitor the counting process at a close distance from the counting table, while members of the public and the media were also allowed to observe in a designated area of the counting station.

6.23 Upon the commencement of the count, the PRO of a polling station was charged with the responsibilities of conducting the counting. The polling staff should assist him/her in carrying out the counting duties. The PRO was also responsible for determining the validity of questionable ballot papers pursuant to section 79 of the EAC (EP) (DC) Reg.

Section 8 – Crisis Management Committee

6.24 In line with past practice, the REO set up a CMC for this election and drew up a detailed contingency plan to deal with incidents where the election might be obstructed, disrupted, undermined or seriously affected to such extent that necessitating a decision of the EAC to postpone or adjourn the election, the poll or the count. These incidents include inclement weather, riot, open violence or occurrences of danger to public health or safety, and occurrences of material irregularity relating to the election, the poll or the count in the EAC's view. The CMC was chaired by the EAC Chairman and comprised EAC Members, the Secretary for Constitutional and Mainland Affairs (or his representative(s)), and representatives of the REO, the Home Affairs Bureau, the HAD, DoJ and ISD. Representatives of other relevant Government bureaux and departments could also be invited to the meetings of the CMC when necessary.

6.25 A meeting of the CMC was held on 20 November 2019 at which the CMC was briefed by relevant Government bureaux and departments on their evaluation of the prevailing social situation, election-related preparations and co-ordination efforts, and the deployment for the polling day (including enhanced logistic support, security, and corresponding arrangements and measures for the election) to ensure that the

election would be conducted smoothly. From the start of the poll on the polling day to the announcement of all election results, the CMC was closely monitoring the conduct of the election, and assisted the EAC in handling any occurrences that might affect the election.

Section 9 – Fast Response Team

6.26 In line with the practice since the 2008 LegCo General Election, a Fast Response Team (“FRT”) comprising experienced personnel was appointed to conduct random checks on the operation of polling stations and performance of polling staff to ensure that the stipulated electoral procedures and requirements were strictly followed.

6.27 The FRT comprised ten members, each overseeing polling stations in one to two districts. Apart from conducting inspection of polling stations and advising PROs to take remedial or improvement measures where necessary, the FRT was also tasked to deal with enquiries about electoral arrangements made by the ROs and PROs, and to render immediate advice and assistance to them. The FRT had to report to the Central Command Centre (“CCC”) on any major irregularities and problems observed, and to implement the subsequent instructions as given by the CCC.

Section 10 – Contingency Measures

6.28 The DCO and EAC (EP) (DC) Reg stipulate the provisions on the postponement or adjournment of the election, the polling or the counting of votes of

an DC ordinary election as a whole, or in respect of an individual constituency or polling/counting station ¹. In addition, the REO formulated the following arrangements to cater for inclement weather or other emergencies:

- (a) postponement or adjournment of the poll or the count in one or more polling/counting stations;

¹ As stipulated under section 38(1) and (2) of the DCO, the CE may, by order, direct the postponement or adjournment of an ordinary election, or the polling or counting of votes in respect of an ordinary election if, before the holding of the election or during the polling or counting of votes in respect of an ordinary election, the CE is of the opinion that the election, the polling or the counting of votes is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot or open violence or any danger to public health or safety.

In accordance with section 1 of Schedule 1 to the EAC (EP) (DC) Reg, if, before the holding of an ordinary election or at any time during the polling or the counting of the votes at an ordinary election, it appears to the EAC that the election, the poll or count is likely to be obstructed, disrupted, undermined or seriously affected by (a) an occurrence of a typhoon or other climatic condition of a serious nature; or (b) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or count, the EAC may postpone or adjourn the holding of the election, the poll or count by making a declaration.

In respect of a single constituency, according to section 2 of Schedule to the EAC (EP) (DC) Reg, if, during or before an ordinary election, or at any time during a poll or count in respect of an ordinary election, it appears to the EAC that the election for a constituency, the poll at all the polling stations for any constituency or the count at all the counting stations for any constituency is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in the following: (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or count, the EAC may adjourn the election (“prescribed occurrences”), the poll at all the polling stations or the count at all the counting stations for that constituency.

For the adjournment of the poll or count at a particular polling/counting station, in accordance with section 3 of Schedule 1 to the EAC (EP) (DC) Reg, if, at any time during polling or counting at an ordinary election, it appears to the PRO that the poll at the polling station, or the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by any prescribed occurrences as abovementioned, the PRO may adjourn the poll at that polling station or the count at that counting station.

- (b) extension of polling hours if a substantial portion of the polling hours was lost because of flooding, power failure or other emergencies in one or more polling stations;
- (c) designation of alternative polling/counting stations to serve as replacement or additional polling/counting stations in the event that the original stations, for one reason or another, could no longer function properly or be accessed by electors;
- (d) setting up of an emergency depot in each of the 18 Districts to provide logistic support to respective polling stations in each district; and setting up of a fallback Statistical Information Centre (“SIC”) in the Yau Ma Tei Car Park Building to compile statistical returns collected from polling/counting stations; and
- (e) preparation of public announcement notices in the event that any of the contingency arrangements set out in paragraphs 6.28(a), (b) and (c) above had to be implemented.

6.29 Most of the polling stations were set up at venues in which the institution needed to resume operation in the morning of the day after the polling day (i.e. 25 November 2019), such as schools and post offices. In this connection, the REO had to hand back these premises by 6:00 am of 25 November 2019. The REO drew up a detailed contingency plan to cater for the event that the count could not be completed on time and had to take place in a reserve counting station.

CHAPTER 7

PUBLICITY

Section 1 – An Introductory Note

7.1 Publicity is an important element in elections. It arouses the awareness of the members of the public and appeals to them to actively participate in the election by registering as electors, seeking candidature or casting their votes on the polling day. It also serves to disseminate relevant electoral information to candidates and electors in a swift and proper manner, and most importantly, to remind electors to vote on the polling day. In the 2019 DC Ordinary Election, the EAC and other Government departments concerned contributed much to the publicity of the election in order to enhance the electors' knowledge of voting procedure as well as to encourage them to cast their votes actively.

7.2 Apart from the VR campaign described in Chapter 3, other publicity activities organised are detailed in the following paragraphs.

Section 2 – Major Publicity Activities

7.3 The major publicity activities for the 2019 DC Ordinary Election were launched on 24 September 2019, and lasted for nine weeks until the polling day on 24 November. The objectives of the activities were to promote general awareness of the DC Ordinary Election, encourage seeking candidature and nominations of candidates, introduce the electoral procedures, promote clean and fair elections, and

appeal to the registered electors to vote on the polling day. These publicity activities were coordinated by the inter-departmental working group led by the CMAB, and implemented with the assistance of the HAD, ISD, ICAC and REO, etc. They included broadcasting the government APIs on television and radio, setting up a dedicated election website, displaying posters, putting up banners and lamppost buntings, and advertising on the Internet and public transport and at government venues, etc. In addition, to enhance the knowledge of the public on the polling arrangements, two government APIs were broadcast to remind electors to follow the proper voting procedures to preserve the secrecy of votes, and to remind electors who have mobility difficulties or use a wheelchair to apply in time for re-allocation to a special polling station should they find the designated polling station difficult to access, and the REO would, where circumstances permit, arrange Rehabus upon request to transport them to and from the polling station.

7.4 To provide electors who are illiterate in Chinese or English with information of this election and the voting procedures, the election briefs and the voting procedures were translated into nine languages and uploaded onto the dedicated website for the 2019 DC Ordinary Election. The relevant information was also uploaded to the website of the Race Relations Unit under the HAD and sent to six support centres for ethnic minorities to arouse their awareness of this election. The Government also published advertisements in the newspapers and newsletters targeting the ethnic minorities to encourage them to seek candidature and vote. Besides, information on the voting procedures and appeals for registered electors to vote were broadcast in ethnic minority languages on the radio.

7.5 The ISD helped set up the dedicated election website as mentioned in

paragraph 7.3 above to facilitate electors' access to information related to the election.

Section 3 – Other Publicity Activities by the EAC

7.6 On 24 October 2019, the EAC Chairman conducted a briefing session for the candidates at the AsiaWorld-Expo, Hong Kong International Airport, Lantau, which was covered by the media. However, the briefing session was cancelled in the course as some people disrupted the order of the event. Relevant information of the briefing session was subsequently uploaded to the election website for candidates' reference. The information of the nominated persons and other election-related information were also uploaded to the website for electors' easy access. The EAC Chairman and the two Members also met with the media and updated them on the progress of the election at various intervals on the polling day.

7.7 Mock polling stations at Leighton Hill Community Hall, Henry G. Leong Yau Ma Tei Community Centre, Tai Po Community Centre and Tuen Mun Town Hall were open to the public from 20 to 23 November 2019 to facilitate members of the public to familiarise themselves with the station set-up and voting procedures. On 19 November 2019, the EAC Chairman also met with the media at Leighton Hill Community Hall to introduce the arrangements of the 2019 DC Ordinary Election and demonstrate the voting procedures.

7.8 Before the polling day, the REO issued press releases from time to time to keep the public informed of various important events at different stages of the election.

Section 4 – Publicity on Clean Elections

7.9 To promote the importance of clean elections, the ICAC launched a series of educational and publicity activities on the theme of “Abide by the Rules, Support Clean Elections” for the 2019 DC Ordinary Election since early 2019, which included:

- (a) conducting briefing sessions to explain the major provisions of the ECICO to candidates, their election agents, helpers and members of political parties/local organisations;
- (b) producing leaflets on “anti-vote-rigging” for distribution to electors who were newly registered and had updated their particulars to remind them not to contravene the law;
- (c) producing a “Clean Election Information Booklet”, an “Election Checklist” and a “Guidelines for Candidates on Election Return” to elaborate the issues and relevant legislative requirements requiring the attention of candidates and their election agents in conducting electioneering activities and completing the election return;
- (d) distributing the “Guidelines for Electors” leaflet to electors, arranging talks for senior and young electors, and disseminating clean election messages to residents through the platform of public housing estate advisory bodies so as to remind electors of the importance of clean elections;

- (e) launching a new series of short educational videos on “Upholding Clean Elections” to remind the stakeholders in a lively and realistic manner that they must abide by the laws and rules, and broadcasting the videos at seminars and briefing sessions, online and on traditional publicity platforms during the period from VR to voting;
- (f) disseminating clean election messages through both traditional and online media. Apart from television, radio and newspaper, advertisements were also published on public transport, housing estates, commercial buildings, community facilities, public areas under the Government, giant out-door media which are innovative and interactive and other advertising platforms. With respect to online media, the messages were effectively disseminated through popular websites, websites of Government departments and social media platforms. In addition, the channels of public utilities were used to promote a clean election culture. Two new online videos targeting young electors had also been produced. Moreover, in response to the concerns of society, publicity had been stepped up to call on the public not to use force or deception to influence an elector’s voting preference;
- (g) setting up a dedicated website to provide relevant information to the public; and
- (h) setting up a “Clean Election Enquiry Hotline” to answer public enquiries on the ECICO and educational and publicity activities.

Section 5 – Appeals and Clarifications

7.10 During the preparations for this election, there were successive incidents undermining the public order and peace of Hong Kong, involving cases of personal assaults on persons including the candidates and damage to properties. In this connection, the EAC had repeatedly called upon the public to cherish the fine election culture of Hong Kong so that the election could be conducted in a peaceful and safe environment.

7.11 During the election period and on the polling day, quite a number of rumours and false information about the election were circulated on the Internet and social media platforms. For example, there were rumours about “face recognition system” installed in polling stations, false allegation that the angled cut at the corner of the ballot papers (which is a design aims to facilitate electors with visual impairments) as polling staff’s deliberate act to spoil the ballot papers, calling on people to take away the identity cards of elderly electors, rumours about impersonators applying for ballot papers in the name of another person with a “memo of lost property”, etc. The EAC and the relevant Government departments quickly clarified the false information through different channels to avoid the electors from being misled and influenced.

PART THREE

ON THE POLLING DAY

CHAPTER 8

CENTRAL SUPPORT

Section 1 – The Central Command Centre

8.1 The CCC was set up at the REO's office at the Kowloonbay International Trade & Exhibition Centre ("KITEC"). The REO and the relevant Government bureaux and departments concerned had deployed their staff to station in the CCC to facilitate communication and co-ordination and to oversee the electoral arrangements on the polling day. The CCC was under the direct supervision of the CEO who was deputised by the Principal Electoral Officer. This command structure significantly enhanced the ability of the CCC to respond swiftly to various problems associated with the election on the polling day.

8.2 At the district level, District Liaison Officers from District Offices were responsible for liaison work among individual polling stations, the respective ROs and the CCC.

Statistical Information Centre

8.3 An SIC was set up inside the CCC for compiling and collating the hourly voter turnout statistics of all polling stations and the counting results of each counting station. Voter turnout figures were made available to the public on an hourly basis through press releases and the dedicated website for the 2019 DC Ordinary Election during the polling.

Section 2 – The Complaints Centre

8.4 A Complaints Centre (“CC”) was set up at the REO’s office at the Harbour Centre to handle complaints from the public.

8.5 Complainants could lodge complaints by telephone, fax or e-mail. The CC was manned by staff of the EAC Secretariat and operated throughout the polling hours. Details on the work of the CC and the complaints received on the polling day and during the complaints-handling period are set out in Chapter 12.

CHAPTER 9

THE POLL

Section 1 – Polling Stations, Polling Hours and Voter Turnout

9.1 On the polling day, 615 ordinary polling stations were in operation, of which 585 (95%) were accessible to electors with mobility difficulties or who use a wheelchair. The polling hours were from 7:30 am to 10:30 pm. Apart from the ordinary polling stations, the REO set up 20 DPSs for registered electors imprisoned or remanded under the custody of the CSD to cast their votes on the polling day. Owing to security reasons, polling hours for DPSs set up at the penal institutions of the CSD were from 9:00 am to 4:00 pm. The REO also set up DPSs at the Happy Valley Police Station, Cheung Sha Wan Police Station and Tin Sum Police Station for registered electors remanded or detained by the LEAs other than the CSD (including the Police, ICAC, Customs and Excise Department and ImmD, etc.) on the polling day to cast their votes. Since the LEAs might arrest persons who happened to be registered electors at any time on the polling day, polling hours for DPSs set up at police stations were the same as those for the ordinary polling stations, i.e. from 7:30 am to 10:30 pm.

9.2 On the voter turnout, a total of 2 943 842 electors (including 1 016 electors who cast their votes at the DPSs set up at police stations and penal institutions) cast their votes, representing 71.23% of all registered electors. Both the voter turnout and turnout rate reached record highs and far exceeded those of the 2015 DC Ordinary Election (the voter turnout was 1 467 229 and the turnout

rate was 47.01%). According to the detailed breakdown of the hourly voter turnout and voter turnout rates for this election (see **Appendix II(A)**), the voter turnout and voter turnout rate for the first three hours were as high as 720 455 and 17.43% respectively, increasing significantly as compared with the same period of time in the 2015 DC Ordinary Election (the voter turnout was 211 978 and the voter turnout rate was 6.79% for the first three hours in that election). As a result, there were long queues of electors at some polling stations. The circumstances among polling stations varied, and hence the handling of queuing by the PROs were also different, resulting in public concerns and discussions. The EAC then instructed that all PROs must abide by the principle of equality and arrange for electors to queue up at the ballot paper issuing desks in the order of arrival and PROs might make flexible arrangements having regard to the actual situation of their polling stations (see paragraphs 13.45 to 13.49 below for details). On the whole, the poll was conducted by and large in an orderly manner. However, the waiting time for electors to collect their ballot papers was generally longer and the electors of some polling stations had to wait for more than an hour. A detailed breakdown of the voter turnout and the voter turnout rates by Districts for this election is set out at **Appendix II(B)**.

Section 2 – Exit Poll

9.3 The REO received application from one organisation for conducting exit polls on the polling day. In considering the application, the REO followed the principles set out in Chapter 14 of the Guidelines. Approval would normally be given to applications provided that the conduct of exit polls would not compromise the fairness and impartiality of the election. In accordance with the aforesaid

principle, the application from the organisation was approved. Details of the organisation were uploaded to the dedicated website for the 2019 DC Ordinary Election and displayed at a prominent spot outside the relevant polling stations for public inspection.

CHAPTER 10

THE COUNT

10.1 In the light of past experience, the polling-cum-counting arrangement was adopted for this election. All polling stations, with the exception of the small polling stations with less than 200 registered electors, special polling stations and the DPSs, were converted into counting stations immediately after the close of poll.

10.2 To ensure openness and transparency of the counting process, candidates, their election agents, polling agents and counting agents were allowed to stay inside the polling stations after the poll to observe the conversion of the polling stations into counting stations. The duration of the conversion process varied from station to station, and the average was about one hour. The media and members of the public were allowed to enter the stations after the conversion. Candidates, their counting agents, members of the public and the media were permitted to observe the count in the public area of the counting station.

10.3 As there was no counting arrangement at the small polling stations, special polling stations and the DPSs, according to section 63A of the EAC (EP) (DC) Reg, the PRO should seal the ballot boxes and relevant electoral materials and the process was open to candidates, election agents or counting agents for observation. The ballot boxes containing the ballot papers cast at the small polling stations and the special polling stations were transported direct to the respective MCSs. On the other hand, ballot papers cast at DPSs were sent to the corresponding BPSS for sorting according to constituency, and then put in a

receptacle and delivered to the respective MCSs for counting. The sorting process was open to the public for observation. To protect the secrecy of votes, the ballot papers cast at the small polling stations, special polling stations and the DPSs would be mixed with those cast at MCSs in accordance with section 76 of the EAC (EP) (DC) Reg before they were counted.

10.4 According to section 76 of the EAC (EP) (DC) Reg, counting staff should sort the ballot papers with reference to the candidate for which the vote has been recorded, and identify and separate the invalid ballot papers and questionable ballot papers in the course of counting. In accordance with section 78 of the EAC (EP) (DC) Reg, the invalid ballot papers would not be counted. Candidates, their election agents and counting agents could inspect these invalid ballot papers but they were not entitled to make any representations to the PRO concerning the ballot papers. Besides, according to section 76 of the EAC (EP) (DC) Reg, the validity of the questionable ballot papers should be determined by the PRO in accordance with section 79 of the EAC (EP) (DC) Reg.

10.5 According to section 79 of the EAC (EP) (DC) Reg, when the PRO was determining the validity of the questionable ballot papers, candidates, election agents or counting agents were allowed to inspect these ballot papers and make representations to the PRO concerning the ballot papers. The PRO would consider the representations and make final decision on the validity of the questionable ballot papers. According to section 80 of the EAC (DC) (EP) Reg, the PRO's decision on any ballot paper was final. If a candidate was discontent with the decision, he/she might lodge an election petition to question the result of the election in accordance with sections 49 and 50 of the DCO.

10.6 An analysis of the ballot papers that were not counted (including those which were invalid and questionable ones which were rejected by the PROs after consideration) is shown at **Appendix III**. In addition, an analysis of invalid ballot papers kept by the PROs (including those endorsed by the PRO with the words “未用” and “UNUSED” according to section 61 of the EAC (EP) (DC) Reg and with the words “損壞” and “SPOILT” according to section 62) is shown at **Appendix IV**.

10.7 Upon completion of the count, the PROs of all counting stations made known the counting results to candidates, their election agents or their counting agents present at the counting station in accordance with section 80A or 80B of the EAC (EP) (DC) Reg. The candidates, their election agents or their counting agents could request for a recount of votes. After it had been ascertained that there was no request for recount or further request for a recount¹, the PROs would report the results of the count (and the recount, if any) conducted in their respective stations to the SIC. The SIC would then verify the results and pass the results to the relevant RO by fax. If there were two or more counting stations in a constituency, the SIC would first verify and consolidate the counting results from all counting stations and then pass the overall result of the constituency to the PRO of the dominant counting station. The PRO would then inform the candidates or their agents on the spot to ascertain whether they would like to request for a recount. After the election result of the constituency had been confirmed, the RO would declare the final election results by posting a notice in prominent place outside

¹ Or if such request is rejected by the PRO as being unreasonable in accordance with section 80A(5) or 80B(5) of EAC (EP)(DC) Reg.

his/her office, and declare the election result as soon as practicable in accordance with section 81 of the EAC (EP) (DC) Reg. Thereafter, he/she would fax a copy of the signed notice to the SIC, and the SIC would inform the PROs who would display a notice of the counting results outside the counting stations to inform the candidates, their agents, the media and members of the public of the counting result of the counting stations.

10.8 The count and determination of questionable ballot papers were conducted smoothly in general in all counting stations. However, as some members of the public at certain counting stations were unfamiliar with the counting procedures, they questioned the impartiality of the PROs and counting staff and disrupted the counting process, which had prolonged the counting time of the relevant counting stations (please refer to the relevant items of review and recommendations under Chapter 13 of this Report). The whole counting process took about 13 hours to complete after the close of poll. The first result was announced at 3:10 am on the day following the polling day and the last result was announced at 12:40 pm. The EAC was satisfied in general with the overall electoral arrangements for this election.

10.9 The election results of the 18 Districts were published in the Gazette Extraordinary on 29 November 2019 and are now re-produced at **Appendix V** for reference.

CHAPTER 11

EAC VISITS

11.1 On the polling day, the Chairman and the two Members of the EAC cast their votes at their designated polling stations. They also visited polling stations in various districts and then proceeded to the CCC to closely monitor the progress and the situation of the poll. Besides, they met with the media together in the morning at Ma Tau Chung Government Primary School (Hung Hom Bay) and then in the afternoon at the KITEC to provide electoral statistics and answer their questions.

11.2 After the close of the poll, the EAC Chairman and the two Members visited the Kowloon Tong Government Primary School, and then emptied the first ballot box together with the Secretary for Constitutional and Mainland Affairs. Afterwards, the EAC Chairman and the two Members met with the media to brief them on the overall voter turnout, the count and the arrangement on the declaration of election results. They also answered the questions raised by the media. All counting work was completed at 12:25 pm on 25 November 2019. After that, the EAC Chairman met with the media at the CCC to conclude the election. The EAC considered that the polling and counting of this election were conducted and completed in an open, fair and honest manner.

PART FOUR

VOICES FROM THE PUBLIC

CHAPTER 12

THE COMPLAINTS

Section 1 – A General View

12.1 The complaints-handling mechanism is one of the means adopted by the EAC to safeguard the fairness and integrity of the electoral system. Some complaints revealed the deficiencies in certain aspects of the electoral arrangements and helped the EAC make better arrangements in future elections.

12.2 The complaints-handling mechanism also acts as a mutual check among candidates, and, through complaints, they would better understand the requirements of the electoral legislation and Guidelines. The EAC is committed to handling complaints received fairly and efficiently.

Section 2 – The Complaints-handling Period

12.3 The complaints-handling period for the 2019 DC Ordinary Election started from 4 October 2019, i.e. the day when the nomination period commenced, and ended on 8 January 2020, i.e. 45 days after the polling day.

Section 3 – The Complaints-handling Parties

12.4 A total of five designated parties were responsible for handling complaints during the complaints-handling period. They were the EAC, the ROs, the Police,

the ICAC and the PROs (who discharged the duties on the polling day only). Complainants could lodge their complaints with any of the above parties. Each of these parties had their respective areas of responsibilities on the nature of the complaints.

12.5 The EAC is responsible for handling complaint cases that were within its jurisdiction and not covered by any statutory provisions involving criminal liability. The ROs were responsible for handling complaints of a minor nature under the authority delegated to them by the EAC, e.g. those relating to EAs, electioneering activities, use of sound amplifying devices, etc. The Police handled cases that involved possible criminal liability, e.g. breaches of the EAC (EP) (DC) Reg and criminal damage of EAs. The ICAC attended to cases that involved possible breaches of the ECICO, the Prevention of Bribery Ordinance (Cap 201) and the ICAC Ordinance (Cap 204). The PROs received complaints at the polling stations on the polling day and took action on the spot regarding cases which required immediate attention, e.g. the unlawful activities as carried out in the vicinity of the polling stations, etc.

12.6 The EAC Secretariat assumed the role of the co-ordinator for collating complaint-related statistical information from other parties and compiling consolidated reports for submission to the EAC during the complaints-handling period.

Section 4 – The Number and Nature of Complaints

12.7 By the end of the complaints-handling period on 8 January 2020, a total of

44 947 complaints were directly received from the public by the five parties mentioned above. Details are as follows:

Complaints-handling Party	No. of Complaints Directly Received from the Public
EAC	34 961 cases
ROs	7 524 cases
Police	775 cases
ICAC	407 cases
PROs	1 280 cases
	Total: 44 947 cases

12.8 The election was held under the situation that there were successive incidents undermining the public order and peace. Against this background, the total number of complaints received by the five parties was the highest ever, and the increase was alarming. Many of the complaints involved criminal damage/use of violence/intimidation, reaching a total of 1 458 cases. Besides, the majority of the complaints were related to the counting arrangements (21 335 cases), EAs (8 983 cases), deception in relation to voting (2 629 cases), and polling arrangements (2 313 cases). A breakdown of the complaints by receiving party and nature is shown at **Appendices VI (A) – (F)**.

12.9 The EAC noted that during the election, there had been successive occurrences of protests, confrontations, violent incidents and unlawful acts in society, such as assaults on candidates and public figures during the electioneering activities, offices of the candidates were reported to be severely damaged, display of political

slogan or intimidating messages on “Lennon Walls”, etc. In this connection, the EAC had repeatedly called upon the public to cherish the fine election culture of Hong Kong so that the election could be conducted in a peaceful and safe environment. The EAC reminded members of the public that they should report immediately to the LEAs should they encounter any violence, whether or not it is in connection with the election. The EAC has referred the relevant complaints received to the LEAs for follow-up according to the established procedures.

12.10 Moreover, quite a number of rumours and false information about the election were circulated on the Internet and social media platforms on or before the polling day. For example, there were rumours about “face recognition system” installed in polling stations; false allegation that the angled cut at the corner of the ballot papers, which is a design aims to facilitate electors with visual impairments, as polling staff’s deliberate act to spoil the ballot papers; calling on people to take away the identity cards of elderly electors; rumours about impersonators applying for ballot papers in the name of another person with a “memo of lost property”, etc. (please refer to paragraph 13.161 below for details). The EAC and the relevant Government departments quickly clarified the false information through different channels to avoid the electors from being misled and influenced. For complaints which involve criminal liability, the EAC has referred them to LEAs for follow-up according to the established procedures.

12.11 The EAC is of the view that elections pertain to the general public and that any irresponsible act with the intent to compromise an election should not be tolerated. For complaints which involve criminal liability, the EAC is referring them to LEAs for follow-up according to the established procedures. The EAC

urges relevant Government departments to step up preventive and law enforcement vigour in future public elections to curb the illegal conducts.

Section 5 – Handling of Complaints on the Polling Day

12.12 On the polling day, as mentioned in paragraph 8.4 above, a CC was set up in the REO's office at the Harbour Centre to handle complaints. The CC was operated by staff of the EAC Secretariat. The ROs also set up district command centres at their offices to receive and handle complaints. The PROs received and handled complaints on the spot at the polling/counting stations. Moreover, designated police officers were on duty in the police stations in the 18 Districts to attend to complaints. Designated ICAC officers also manned a complaint hotline to deal with incoming calls on the polling day.

12.13 The CC, ROs and PROs received a total of 7 432 complaint cases on the polling day, which was a significant increase of 205.97% compared with the total number of 2 429 cases received on the polling day of the 2015 DC Ordinary Election. Some of the complaints involving incidents on the spot, e.g. the unauthorised display of EAs, illegal canvassing in NCZs, noise disturbances to electors caused by loudspeakers, etc. were already dealt with and resolved. More complicated cases would take longer time to handle or needed to be referred to the relevant authorities for investigation and follow-up actions. The EAC has requested the complaint-handling parties and relevant departments to increase their manpower in complaints-handling in future public elections.

12.14 Of the 7 432 cases handled by the CC, ROs and PROs on the polling day, 3 138 cases (i.e. 42.2%) were resolved before the close of the poll.

12.15 The CC received a total of 3 378 cases on the polling day. Out of them, 3 346 cases would require further investigation while the remaining 32 cases were resolved on the polling day.

12.16 A breakdown of complaint cases received on the polling day is shown at **Appendices VII (A) – (F)**.

Section 6 – The Outcome of Investigations

EAC and ROs

12.17 As at 8 January 2020 (when the complaints-handling period ended), the EAC and ROs received 36 221 cases and 10 972 cases respectively (**Appendices VI (B) and (C)**). Of the cases which have been dealt with, none was found substantiated by the EAC, while 4 454 cases were found substantiated or partially substantiated by the ROs. A total of 1 575 warning letters have been issued to the infringing parties. There were still 6 266 cases under investigation.

12.18 A breakdown of the outcome of investigations as at 7 February 2020 is shown at **Appendices VIII (A) and (B)**.

Police and ICAC

12.19 Out of the 996 cases handled by the Police (**Appendix VI (D)**), 1 case was found substantiated after investigation. The ICAC handled 550 cases (**Appendix VI (E)**) and none was found substantiated for the time being. There were still 979 cases under investigation by these two parties.

12.20 A breakdown of the outcome of investigations as at 7 February 2020 is shown at **Appendices VIII (C) and (D)**.

Section 7 – Election Petitions

12.21 Pursuant to section 49 of the DCO, the result of the DC election may be questioned by an election petition made on the following grounds:

- (a) the ground that the person declared by the RO in accordance with regulations in force under the EACO to have been elected as an elected member at the election was not duly elected because:
 - (i) he/she was not eligible to be, or was disqualified from being, a candidate at the election;
 - (ii) corrupt or illegal conduct was engaged in by or in respect of that person at or in connection with the election;

- (iii) corrupt or illegal conduct was generally prevalent at or in connection with the election;
- (iv) material irregularity occurred in relation to the election, or to the polling or counting of votes at the election; or
- (b) a ground specified in any other enactment that enables an election to be questioned.

12.22 As stipulated under section 50 of the DCO, an election petition may be lodged:

- (a) by 10 or more electors entitled to vote in the relevant constituency; or
- (b) by a person claiming to have been a candidate in the relevant constituency.

In accordance with section 53(1) of the DCO, an election petition questioning an election may be lodged with the CFI only during the period of two months following the date on which the RO has published the result of the election in the Gazette¹.

¹ According to section 53(1) of the DCO, an election petition may be lodged with the CFI only during the period of two months following the date on which the RO has published the result of the election in the Gazette. The results of the 2019 DC Ordinary Election were published in the Gazette on 29 November 2019. Therefore, the deadline for election petition was 29 January 2020 originally. The Judiciary had announced on 28 January 2020 that the court office would be closed with immediate effect due to public health considerations. As such, according to section 71(1A)(a) of the Interpretation and General Clauses Ordinance (Cap 1), the deadline for lodging an election petition regarding the 2019 DC Ordinary Election will be extended to the date when the court offices resume operation.

12.23 Nine election petitions regarding the 2019 DC Ordinary Election had been lodged by 21 February 2020. The details are set out in the ensuing paragraphs.

12.24 Mr CHENG Keung-fung, one of the two candidates of the Tsui Ping Constituency (Code: J29) of Kwun Tong District, lodged an election petition questioning the election of Mr HUNG Chun-hin, who was the elected candidate in the same constituency, on the grounds that Mr HUNG had published false or misleading statements about candidates at the election.

12.25 Mr HUNG Chi-kit, one of the two candidates of the Kam Ping Constituency (Code: C21) of Eastern District, lodged an election petition questioning the election of Mr LEE Yue-shun, who was the elected candidate in the same constituency, on the grounds that material irregularities occurred in relation to the election.

12.26 Mr LAW Ting-fai, one of the two candidates of the Ping Shan North Constituency (Code: M34) of Yuen Long District, lodged an election petition questioning the election of Mr YOUNG Ka-on, who was the elected candidate in the same constituency, on the grounds that Mr YOUNG and/or his agents had published EAs with false claim of support and used or threatened to use force or duress against electors at the election, and material irregularities occurred in relation to the election.

12.27 Mr WONG Fu-sang, one of the three candidates of the Kwong Hong Constituency (Code: R40) of Sha Tin District, lodged an election petition questioning the election of Mr LIAO Pak-hong Ricardo, who was the elected candidate in the same constituency, on the grounds that Mr LIAO had engaged in corrupt or illegal

conduct at the election, corrupt and illegal conduct was generally prevalent at the election in the constituency and material irregularities occurred in relation to the election.

12.28 Ms TUNG Kin-lei, one of the four candidates of the Tai Wai Constituency (Code: R20) of Sha Tin District, lodged an election petition questioning the election of Ms NG Ting-lam Kudama, who was the elected candidate in the same constituency, on the grounds that Ms NG had published EAs with false claim of support at the election, corrupt and illegal conduct was generally prevalent at the election in the constituency and material irregularities occurred in relation to the election.

12.29 Mr CHAN Kai-wai, one of the three candidates of the Wai King Constituency (Code: Q09) of Sai Kung District, lodged an election petition questioning the election of Mr YIP Brandon Kenneth, who was the elected candidate in the same constituency, on the grounds that Mr YIP had engaged in corrupt or illegal conduct at the election, corrupt and illegal conduct was generally prevalent at the election in the constituency and material irregularities occurred in relation to the election.

12.30 Mr LAM Pok, one of the three candidates of the To Kwa Wan South Constituency (Code: G17) of Kowloon City District, lodged an election petition questioning the election of Mr LEE Hin-long, who was the elected candidate in the same constituency, on the grounds that Mr LEE had published EAs with false claim of support at the election.

12.31 Mr CHAN Kwok-wai, one of the two candidates of the Shek Kip Mei Constituency (Code: F04) of Sham Shui Po District, lodged an election petition questioning the election of Mr SIN Kam-ho, who was the elected candidate in the same constituency, on the grounds that Mr SIN had engaged in illegal conduct at the election, the EAC did not postpone or adjourn the election of the constituency in response to the social situation, and material irregularities occurred in relation to the election.

12.32 Mr KOO Yeung-pong, one of the two candidates of the Clague Garden Constituency (Code: K06) of Tsuen Wan District, lodged an election petition questioning the election of Ms CHAN Kim-kam, who was the elected candidate in the same constituency, on the grounds that Ms CHAN and/or her agent had published false or misleading statements about candidates at the election.

12.33 The above-mentioned cases are yet to be dealt with by the court.

PART FIVE

AFTER THE POLLING DAY

CHAPTER 13

THE REVIEW AND RECOMMENDATIONS

Section 1 – A General Remark

13.1 The EAC is of the view that the 2019 DC Ordinary Election is on the whole conducted in an open, fair, honest and safe manner. Except for the problems of order during counting at certain counting stations, the process on the polling day was on the whole completed peacefully and orderly.

13.2 Hong Kong has always cherished a fine election culture. Apart from secrecy of the ballot, electors can freely vote without the fear of violence or threats in a safe and orderly manner to elect their representatives in the Councils.

13.3 The 2019 DC Ordinary Election has faced unprecedented challenges. The situation in society was very unpeaceful before the polling day. There were a number of incidents of breaking the public order, such as assaults on persons including the candidates, damage and even arson to properties including ward offices of the Councillors, and electioneering activities of some candidates were reported to have been impacted to varying degrees, causing the public to worry whether the election can be held in a fair, just and safe environment. Peace had by and large been restored to society before the polling day, and the election was completed in safe and good order at the end. This owes much to the efforts of the many polling staff, Government bureaux and departments, and above all, the support and efforts from the electors and all sectors of society.

13.4 However, due to the social situation before the election, tremendous pressure was brought to bear on those signing up for electoral duties, and some electors also feared for their safety in going to polling stations for casting their votes. As always in past elections, order within and in the vicinity of the polling stations is maintained by the police. With the easing of the social situation, the polling staff could carry out their duties with peace of mind, and electors could go to vote in a relatively safe environment eventually. The polling stations were by and large in good order.

13.5 The EAC is not an LEA. It has no power of investigation or enforcement on election-related complaints involving criminal offences. Hence, it has to rely on the police and the ICAC to take necessary action against breaking of the law and order and for corrupt conduct. The LEAs have put their full force behind this election, as well as in the follow-up investigations on cases against the law.

13.6 Hong Kong is a civilised society. Everyone can voice their opinion by lawful and peaceful means, and to vote in an election is one of such lawful rights. Any undermining of our good election culture by acts of violence and any illegal means is not acceptable to our society at all.

13.7 Whether the polling station can operate smoothly will depend on that the polling staff can carry out the polling and counting duties under the leadership of the PRO without being interfered with. Hence, all interferences, even shouting and abusive languages against the polling staff cannot be accepted, and they also cause hindrances to the execution of duties by the polling staff. The EAC has an established mechanism for complaints by anyone dissatisfied with the electoral

arrangements. And if there were any allegations of corrupt or illegal conduct in any matters relating to the election, they could be reported to the LEAs, or that election petitions be brought to question the election results.

13.8 Notwithstanding the series of incidents confronting peace and order before the polling day, the electors had actively exercised their voting rights. The EAC believes that society collectively desires the orderly conduct and completion of the 2019 DC Ordinary Election.

13.9 This election was completed under very trying circumstances as more and more problems were emerging in the course of various events in society, coupled with the rising expectations of the general public. It would have been extremely difficult, if not impossible, to tackle them with the manpower and resources within the establishment of the REO alone. Fortunately, efforts of the Government bureaux and departments were galvanised through the co-ordination of the CMAB to resolve many operational problems, and the EAC wishes to express thanks to them. But above all, the smooth completion of the 2019 DC Ordinary Election would not have been possible without the participation and support of the general public. It is hoped that the public will cherish our good election culture and respect this worthy tradition, and the electors will continue to make use of this platform for the return of councilors as their representatives.

13.10 The many problems encountered in the electoral procedures and arrangements do require thorough review, so that future arrangements will be more refined. The results and recommendations of the review by the EAC are set out below.

Section 2 – Operational Matters

(A) Difficulties in Identifying Suitable Venues for Polling Stations

13.11 In the 2019 DC Ordinary Election, the REO set up a total of 615 ordinary polling stations across the territory for electors to cast their votes, which was 120 (+24.2%) more than the 495 ordinary polling stations in the 2015 DC Ordinary Election. One reason for the increase is that in the 2015 election, 68 of the 431 constituencies were uncontested, while in this election, all 452 constituencies were contested. The REO encountered enormous difficulties in the course of identifying and securing venues for use as polling stations.

13.12 In identifying venues, the foremost consideration is the availability of sufficient space to accommodate the number of electors in the constituency concerned and their accessibility. As school premises are usually conveniently located and more spacious, more than half of the polling stations were set up in schools in past elections. Successful requisition of a suitable venue for use as a polling station largely depends on whether its management is willing to facilitate. In order to secure suitable venues in time, the REO has started to identify venues and conduct site inspections as early as late 2018.

13.13 For the 2019 DC Ordinary Election, over 340 school premises were required by the REO for the setting up of polling stations. To facilitate the identification and borrowing of the venues, the REO sought assistance from the Education Bureau (“EDB”) and the HAD to appeal to the school management to fulfil their social responsibility and make available the school premises for the setting

up of polling stations. Although the appeal by the EDB and the HAD had met with many positive responses, quite a number of schools still indicated that their premises were not available for various reasons. As such, the REO could only look for suitable venues elsewhere as far as possible, both within and outside the constituency. However, due to very limited choices, some of the polling stations eventually had to be set up in venues relatively far from the residential addresses of the electors, perhaps causing inconvenience to some electors.

13.14 Besides, owing to the tense situation and the incidents of violence and criminal damage in society in the months before the polling day, some persons in charge, although having agreed to lending their venues previously, declined to make them available over safety concerns. To minimise the number of affected electors, the REO has appealed to the persons in charge time and again to continue to lending the venues, and invited the CMAB and the EDB to assist in the active lobbying as well. Eventually, with the undertaking of indemnity by the REO for the potential loss and risks arising from the use of the buildings, premises or places concerned, and with the commitment for additional precautionary measures such as offering protective hoardings for the venue facilities and additional security guards to help maintain public order, permission was secured for setting up polling stations in those venues.

13.15 The majority of the polling stations would be converted into counting stations after the close of poll. Since many buildings, premises or places (particularly school premises) where polling and counting stations were located must be returned to the persons in charge of the venues in the morning following the polling day, considerable pressure was imposed on the counting of votes. In this

election, some counting stations could not be handed back by 6:00 am on the day following the polling day. The EAC has issued a press statement around 5:00 am appealing to the persons in charge of the venues to allow the count to continue in the counting stations, hoping that the count could be completed as soon as possible for the return of the venues. Thanks to the accommodation of the persons in charge of the venues, there was no need to move to the fallback counting stations for the counting of votes.

13.16 Recommendation: The EAC notes that the REO has made its best efforts in identifying suitable venues for use as polling stations. However, it has encountered great difficulties in identifying and borrowing venues. The EAC considers that large-scale public elections are an important element in civil society. Making venues available as polling stations is in fact the civil responsibility of the persons in charge. The purpose of a public election is for the election of the councillors by over four million electors. This is central to the interests of Hong Kong as a whole. The EAC hopes that all schools, institutions and organisations concerned could realise that elections could not be conducted at all if the venues were not made available for use as polling stations. The EAC would like to express sincere gratitude to the persons in charge who had made available their venues and for their accommodation.

13.17 As a matter of fact, sites and buildings of many schools or subvented organisations are provided by the Government and they are public resources. The EAC recommends that, in the provision of premises and venues to the schools or subvented organisations, the Government should consider including in the relevant land grants a requirement that the schools and subvented organisations must assist in

the preparation of public elections, and make available their venues and facilities for the setting up of polling stations. The arrangement could save the REO from spending extensive manpower and time in lobbying and requesting repeatedly the schools and relevant organisations in lending their venues for use as polling stations. It would also reduce the risk of not having enough venues to set up polling stations. Furthermore, the arrangement would help the REO identify more suitable venues for setting up additional polling stations in the future to cope with the trend of rising voter turnout.

13.18 Besides, the EAC hopes that the persons in charge of the venues could appreciate that vote counting may well continue into the morning following the polling day. The EAC hopes that they should as far as possible make available part of their venues for vote counting to be carried out ceaselessly within the same place until completion. Although the REO had made prior arrangements for fallback counting stations, risks would always arise in the delivery of ballot papers and other electoral materials to the fallback counting stations, and delay to the counting process is unavoidable. In any case, the EAC once again recommends that the Government do actively consider making the date following the polling day a school holiday to alleviate the concerns of schools in lending their premises, as well as allowing ample time for the REO to clear up and hand back the venues to the schools.

(B) Difficulties in Recruitment of Polling Staff

13.19 The REO has encountered tremendous difficulties in recruiting electoral staff in this election. As a long-established mechanism, posts within the polling stations are open to civil servants only, while non-civil service contract staff only

perform supporting duties. The polling staff are given training by the REO to enable them to discharge election-related duties in accordance with the electoral law and operational guidelines. Given that as many as 20 000 civil servants were required to serve as electoral staff, the REO started the recruitment as early as April 2019. However, the deadline for application had to be extended several times due to insufficient applications. Appeals were made many times by the permanent secretaries and department heads to civil servants to apply for the electoral posts.

13.20 Thereafter, owing to the escalation of violence in the community, quite a number of civil servants had hesitations in taking up election-related work. They were concerned over their personal safety and had worries over handling of confrontations. As a result, withdrawals of submitted applications were made at all tiers of electoral posts. To cope with the situation, the REO had increased the honoraria for electoral posts across the board in a bid to attract and retain electoral staff. In addition, enhanced support for electoral staff was offered by the REO in light of the prevailing social situation, including: (1) transport was provided to PROs and their deputies for collection of electoral materials from designated locations before the polling day to ensure safe delivery of the materials; and (2) a lodging allowance, capped and on a reimbursement basis, was provided to PROs who chose to stay in hotels near the polling stations the night before to ensure punctual arrival at the polling stations on the polling day. In the end, the REO was fortunate enough to recruit enough electoral staff so that the 2019 DC Ordinary Election could be held as scheduled.

13.21 **Recommendation:** The EAC understands that under the existing mechanism, all electoral posts inside the polling stations are taken up by civil

servants because they are sanctioned by the relevant civil service code and regulations. The EAC would like to express its gratitude to the electoral staff for taking part in the electoral work notwithstanding that they were well aware that the task was extremely difficult having to face pressure from all fields, and for putting in their best in handling an election with a record-high turnout. With rising public awareness on electoral matters, the entire course of elections will be under close scrutiny and the pressure and challenges on electoral staff are ever increasing. The EAC hopes that more civil servants will uphold the principle of serving the public and more readily apply for electoral posts in the future. Not only can they broaden their personal experience and exposure, but also contribute to the electoral affairs in Hong Kong. On the other hand, the REO should explore the possibility of appointing, in addition to serving civil servants, retired civil servants as electoral staff in future elections in order to meet the increasing manpower demand due to rising voter turnout. With the experience of retired civil servants (especially those who served as electoral staff before retirement), the elections could be conducted in a better and more efficient way. Meanwhile, the REO should review and enhance the training programmes for electoral staff in order to equip them to discharge electoral duties more confidently and efficiently. The EAC also hopes that all electors will show empathy and understand that the polling staff are working for the public in order that the election can be conducted smoothly.

(C) Formulation of Contingency Plans for Receipt of Nomination Forms from Candidates

13.22 From June 2019 onwards, government office buildings had to be shut down early or closed to the public due to public protests at times. If the office of

an RO became inoperable due to like circumstances during the nomination period, candidates would not be able to submit their nomination forms, thus seriously affecting the electoral process as a whole. The nomination period for this election ran from 4 to 17 October 2019. In order that the nomination process as a whole was not affected in case the office of any RO became inoperable, the REO, after seeking legal advice, had formulated contingency plans for receiving candidates' nomination forms during the nomination period. Well before the nomination period, the REO had identified suitable venues as backup offices in case any RO became unable to receive nomination forms at the original location.

13.23 The Sha Tin Government Offices and the Tuen Mun Government Offices were damaged on the evening of 4 October 2019 (i.e. the first day of the nomination period). As the RO offices of Sha Tin District and Tuen Mun District were located respectively in the two buildings, normal operation could not be resumed the next day. Accordingly, the REO activated the contingency measures and issued a press release at 7:30 am on 5 October 2019 (Saturday) and published a notice in the Gazette subsequently to inform the public that the office addresses for the two ROs to receive nomination forms had been changed to the backup office in Kwun Tong. Support in terms of computer systems, receipt of election deposit, etc., was provided by the REO to the staff of the two RO offices at the backup office, so that candidates of Sha Tin District and Tuen Mun District could submit their nomination forms to the ROs at the backup office on that day. On the next working day (i.e. 8 October 2019), operation of the two RO offices was resumed at the original locations and the REO issued another press release at 7:30 am to inform the public that nomination forms could be submitted to the original offices of the two ROs, followed by Gazette notices subsequently.

13.24 **Recommendation:** The EAC is of the view that, the contingency plans and fallback venues for receipt of nomination forms from candidates during the nomination period prepared for this election has proven to be effective and practical, and such arrangements should continue in the future. In fact, with reference to the above experience, similar arrangements were made during the nomination period of the Rural By-election held in November 2019 in light of the then prevailing situation. In the future, when a relevant contingency plan is activated, the REO should announce the temporary change of address in a more user-friendly way to the candidates. Apart from issuing a timely press release through the ISD and displaying notices at the original RO offices, the REO should also post the press release on the election website as soon as possible.

(D) Review on the Arrangement of the Briefing Session for Candidates

13.25 According to long-standing practice, the EAC organises a briefing session for validly nominated candidates at every election for the purpose of providing the candidates with the important information of the election and reminding them of the essential requirements in the relevant electoral law and guidelines. On the same occasion, the RO conducts lots drawing to allocate to each candidate a candidate number shown on the ballot paper and a set of designated spots for display of EAs.

13.26 In the briefing session for candidates in the 2018 LegCo By-election, some candidates suggested that the arrangement of the briefing session should be reviewed and other methods to disseminate the information to candidates should be considered in order to save resources. Having considered the relevant views, the EAC concluded that, given the certain complexities of the election-related legislation and

guidelines, the holding of the briefing session for candidates is necessary. Nevertheless, given the advancement in technology and the increasingly open information, the election-related information uploaded to the Internet for candidates' reference is becoming comprehensive. Therefore, the contents of the briefing session have been kept as concise as possible. If in doubt, the candidates may make enquiries and obtain information through various channels, including by email or hotline to the REO.

13.27 The briefing session for candidates of the 2019 DC Ordinary Election was held on 24 October 2019 at the AsiaWorld-Expo. In view of the social situation at that time and that the venue was located inside the area of the Hong Kong International Airport which was subject to an injunction imposed by the Court due to the earlier incidents of interference, special traffic arrangements put in place by the Airport Authority Hong Kong and public transport operators on that day had to be followed, making the preparation work for the briefing session more complicated. The REO had to deploy a much larger number of staff and hire many more security guards to help maintain the order at the venue. Extra resources were needed to arrange transportation for participants to and from the venue and various destinations in Kowloon and the New Territories.

13.28 In the evening of the briefing session, the lots drawing session was first conducted to determine the candidate numbers and allocation of the designated spots for the display of EAs. The briefing session was to follow so that candidates who were not attending it could leave upon completion of the lots drawing. However, soon after the commencement of the briefing, some people shouted loudly, seriously disrupting the order of the venue. The briefing had to be suspended for a

considerable period of time and was resumed when the situation had slightly calmed down. Unfortunately, after a short while, the people concerned disrupted the order again. The briefing session was eventually cancelled in the course. While the EAC always respects the freedom of expression, participants of the briefing should observe the rules of the venue in any case. The EAC had expressed deep regret and issued a press release on the day to strongly condemn the disruptive acts of the people concerned.

13.29 **Recommendation:** The EAC is of the view that briefing session for candidates is a good opportunity for the candidates and their agents to better understand the electoral legislation and guidelines. As long as the circumstances permit, briefing sessions for candidates should continue to be conducted as far as possible. Nevertheless, in view of the problems of disruption of the order at the briefings in recent years, the REO should consider drawing up fallback arrangements and look into the feasibility of conducting briefing sessions with the aid of information technology (“IT”), including producing audio-visual materials and uploading them online for viewing by the candidates as well as for reference by the public.

(E) Relocation of Polling Stations and Setting up Reserve Polling Stations as Contingency Measures

13.30 The social situation in Hong Kong deteriorated with occurrence of incidents seriously disrupting the public order a few days before the polling day. In view of the lack of signs of abatement, and tertiary institutions were involved, after careful risk assessment a total of five polling stations originally located inside tertiary

institutions across the territory had to be relocated. The affected polling stations were:

- (1) the polling station of the Pokfulam Constituency (Code: D11) of Southern District at the Sassoon Road Assembly Hall at Pok Fu Lam was relocated to the Yue Kwong Road Sports Centre on Yue Kwong Road, Aberdeen;
- (2) the polling station of the East Tsim Sha Tsui & King's Park Constituency (Code: E17) of Yau Tsim Mong District at the Hong Kong Community College at Hung Hom was relocated to the Yaumati Kaifong Association School on Public Square Street, Yau Ma Tei;
- (3) the polling station of the Shuen Wan Constituency (Code: P18) of Tai Po District at the Education University of Hong Kong Jockey Club Primary School at Tai Po was relocated to the SKH Yuen Chen Maun Chen Primary School at Kwong Fuk Estate, Tai Po;
- (4) the polling station of the Chun Ma Constituency (Code: R24) of Sha Tin District at the John Fulton Centre of the Chinese University of Hong Kong at Sha Tin was relocated to the Yan Oi Tong HK Toi Shan Association Elderly Centre at Royal Ascot, Fo Tan; and
- (5) the polling station of the Fu Tai Constituency (Code: L30) of Tuen Mun District at the Simon and Eleanor Kwok Building of Lingnan University at Tuen Mun was relocated to the Hing Tak School (covered playground) on Hing Ping Road, Tuen Mun.

13.31 In accordance with the contingency plans drawn up by the REO, the fallback options for relocation of polling stations under contingency include:

- (a) assigning electors of the affected polling station to another polling station within the same DCCA;
- (b) assigning the electors of the affected polling station to a reserve polling station as designated in advance; or
- (c) using the available space of a polling station of an adjacent DCCA to set up another polling station for the use of the electors of the affected polling station.

13.32 In determining which of the above options is to be adopted, the REO will take into account various factors, including the usable space of the polling station concerned, the distance between the polling station and the residential addresses of the affected electors, etc. After balancing the pros and cons, the REO has decided that the above-mentioned five polling stations would be relocated as follows: option (a) was adopted for the relocation of polling stations mentioned in items (2) and (4) of paragraph 13.30 above, option (b) was adopted for the relocation of polling stations mentioned in items (1) and (3) above, while option (c) was adopted for the relocation of polling station in item (5).

13.33 As soon as the relocations had been confirmed, the REO promptly notified the electors affected by issuing press releases, mailing the new poll cards (where time permitted, such as the cases mentioned in items (1) to (4) in paragraph 13.30 above)

and sending SMS messages and/or emails (to electors who had provided the REO with their phone numbers and/or email addresses at the time of VR). In addition, arrangements were made to display notices at both the original and new venues of the polling stations affected and deploy additional staff to provide suitable directions to electors to prevent them from going to a wrong polling station.

13.34 **Recommendation:** The EAC notes that the relocation of the polling stations before the polling day of this election will cause inconvenience to the electors concerned. The purpose of the changes was to protect the safety of electors, candidates and their teams as well as the electoral staff, so that the election would proceed smoothly. The REO has strived to make the most appropriate arrangements in the shortest time. The EAC hopes that the electors concerned will understand the constraints.

13.35 On the other hand, the EAC notices that among the three fallback options for relocation of polling stations under contingency, the practicability of the options (a) and (c) will very much depend on the available space of the other polling stations and thus are more uncertain. Regarding option (b), since the REO was able to prepare in advance the full set of facilities for the reserve polling station, there should be less impacts and constraints operationally in case the reserve polling station has to be used for contingency. As an established practice, the REO will generally set up one reserve polling station for each District, except for the Islands District where four reserve polling stations will be set up in view of its special geographical conditions. The EAC is of the view that apart from the Islands District, more reserve polling stations should be set up for the larger Districts so that in case a polling station in a remote location needs to be relocated, the electors affected can

vote at a reserve polling station within a shorter distance.

13.36 Besides, because time is needed to send the poll cards, in the event of urgent relocation of a polling station, the new poll cards may not be able to reach the electors affected in time before the polling day. Therefore, the EAC encourages the electors to provide the REO with their telephone numbers and/or email addresses so that they may be able to receive the latest electoral information. New applicants for VR may provide such contact information to the REO at the same time of his/her application. Registered electors may provide the information by completing the form or in writing and send it to the REO by email, fax, post or in person. Enquiries may be made to the election hotline at 2891 1001 if necessary.

(F) Pilot Scheme for Mobile Input System for Electoral Statistics

13.37 The Mobile Input System for Electoral Statistics (“MISES”) is an Internet-based online application developed by the REO for the polling staff to input, calculate, verify and submit three sets of electoral data on the polling day, namely the hourly voter turnouts, numbers of complaints and counting results. Polling staff uses tablet computers to record and submit these electoral statistics to the SIC of the REO. The first pilot run for MISES took place in this election, covering all polling stations in Yau Tsim Mong District.

13.38 In the past, electoral statistics were submitted by the polling staff to the SIC via faxes and telephone, which involved a rather substantial manual operation and longer processing time. The pilot scheme aims to streamline the workflow, enhance efficiency and accuracy in data calculation.

13.39 In the pilot run, 20 polling stations in Yau Tsim Mong District submitted their electoral statistics through MISES. Only the PRO, DPROs and APRO (Statistics) of the polling station would be allowed to log onto MISES. Under the two-tier authentication mode under the system, the electoral statistics should first be recorded by the APRO (Statistics) and then verified and submitted by the PRO or DPRO to the SIC.

13.40 The data reception unit set up at the SIC, led by two APROs with five POs as operators, was specifically tasked to process electoral statistics submitted by the polling stations of Yau Tsim Mong District.

13.41 The PROs, DPROs and APROs (Statistics) of the polling stations of Yau Tsim Mong District played an important role in the pilot run. Thus, a dedicated session was provided by the REO on 14 November 2019 for the training on MISES including operation of tablet computers, the use of the system, security procedure, etc.

13.42 According to the REO's report, within the first hour after the poll had begun, there were settings problems in using MISES at six polling stations. The polling staff concerned notified the SIC immediately and submitted electoral statistics by fax instead. The contractor of MISES followed up on the notification and corrected the relevant settings. Subsequently, the six polling stations resumed handling and submitting electoral statistics via MISES. Operation of the system was generally smooth thereafter.

13.43 All tablets deployed in the pilot run used mobile data SIM cards to connect

to the MISES server via the Internet. Feedback from the polling staff concerned on the pilot run was generally positive as they regarded MISES being helpful to the calculation and transmission of electoral statistics. Nonetheless, there were comments from the PROs that the network speed was somewhat unstable making it rather slow in switching between different webpages, causing longer time for submitting the statistics.

13.44 **Recommendation:** The EAC is pleased to note that the pilot run was largely successful, and considers that the REO should explore other options that could provide more stable network connection for MISES in order to enhance the efficiency of data transmission and the overall performance of the system. The REO should also consider extending the pilot run to some constituencies in the 2020 LegCo General Election to further test the accuracy and stability of MISES.

(G) Arrangements for Queueing at Polling Stations

13.45 Each polling station will have a number of ballot paper issuing desks in place. The number of issuing desks will depend on the number of electors. In order to ensure that each elector is only issued with one ballot paper, each polling station has only one set of register for the electors assigned to that polling station. The register of electors is arranged according to the alphabetical prefix of the HKID number of the electors. Depending on the number of issuing desks and the distribution of the HKID numbers of the voters of a particular polling station, each ballot paper issuing desk will specifically handle those electors belonging to certain alphabetical prefixes in the HKID number.

13.46 Before the opening of the polling station, the PRO will separate the whole register of electors according to the several alphabetical prefix of the HKID numbers assigned to each ballot paper issuing desk, and have each part of the register of voters placed on the relevant issuing desk. The polling staff will direct the electors to their assigned desk according to the alphabet prefix of their HKID number. After the elector has collected the ballot paper, the PO will place a line to cross out his name and HKID number on the register of electors. Under this arrangement, each elector can only go to the desk assigned to collect the ballot paper, ensuring that there will not be repeated collection of ballot paper.

13.47 In the morning of the polling day, about 720 000 electors turned up to vote within the first three hours after the opening of polling stations, which was three times the voter turnout of the same period of time in the last DC ordinary election. As a result, there were long queues of people at many polling stations. Given that the number of electors turning up at different ballot papers issuing desks might not be evenly distributed at any one time, there were occasions where some ballot paper issuing desks did not have any electors queuing up for ballot papers while some others had more than they could handle. Owing to the large number of electors turning up to vote and the limited queuing space at the ballot paper issuing desks, most of the electors had to queue outside the polling stations. As such, some PROs, having regard to the queuing outside their polling stations, had allowed electors who had difficulties in queuing for a long time due to their physical conditions (e.g. the elderly, pregnant women and persons with disabilities) to enter the polling stations to vote with priority. Furthermore, at certain polling stations, when seeing that no elector was queuing up in front of certain ballot paper issuing desks, the PROs had identified electors queuing outside with the corresponding alphabetical prefixes of

the HKID number and arranged for them to enter the polling station to collect ballot papers from those ballot paper issuing desks. However, some electors of certain polling stations did not agree with the arrangement made by the PROs and even obstructed the arrangement. The varying conditions of polling stations and handling of queuing by the PROs aroused public concerns and discussions.

13.48 The REO was aware of the situation and reported it to the EAC. To ensure that the poll was conducted in a fair and orderly manner, the EAC instructed that all PROs must abide by the principle of equality and arrange for electors to queue up at the ballot paper issuing desks in the order of arrival and PROs might make flexible arrangements having regard to the actual situation of their polling stations. For instance, where electors who had difficulties in queuing for a long time due to their physical condition (e.g. the elderly, pregnant women and persons with disabilities) had requested for assistance, the PRO might, subject to the circumstances, mark the elector's position in the queue and allow them to sit and wait inside the polling station. When it came to the elector's turn, he/she would then be allowed to collect the ballot paper at the relevant issuing desk.

13.49 **Recommendation:** Under the established electoral arrangement, after an elector arrives and enters the polling station, he/she will follow the direction of the polling staff to queue up at the ballot paper issuing desk corresponding to the alphabetical prefix of his/her HKID number to collect the ballot paper. Generally speaking, the queuing arrangement is handled by PROs flexibly having regard to the actual situation of their respective polling stations. Hong Kong has always cherished a fine election culture. In past elections, electors followed the instructions of the polling staff and queue up to collect ballot papers in an orderly

manner. There were no scrambling and no problems. However, the EAC notes that in this election, as there were a large number of electors going to the polling stations to vote at the same time in the morning of the polling day, long queues had appeared outside most of the polling stations. The EAC considers that the REO should learn from the experience of this election and carefully review the current arrangement of the order of electors' entries in the register and the distribution of work among the ballot paper issuing desks, and explore how to make the work at the issuing desks more even, so as to speed up the voting process and channel the flow more effectively. In addition, the EAC notes that there were suggestions that electors with special needs, such as pregnant women, physically handicapped persons with mobility difficulties and senior citizens (e.g. those aged 70 or above), should be allowed to vote with priority. The EAC understands that caring for people with special needs is an element that a civilised and caring society ought to embrace. The EAC will seek the views of the public on the proposal for priority voting through public consultation on the Proposed Guidelines on Election-related Activities in respect of the LegCo Election, and consider the views received and then decide how to deal with it in future elections.

(H) Production of Identity Documents to Apply for Ballot Papers

13.50 According to section 53 of the EAC (EP) (DC) Reg, upon arrival at the polling station, an elector should produce to the polling staff at the ballot paper issuing desk the original of his/her HKID or other specified alternative documents before a ballot paper can be issued to him/her. An elector who is unable to produce the original of his/her HKID because of loss, may produce a document evidencing the elector's report of the loss of the HKID to the police (commonly known as a

“memo of lost property”), together with the original of a valid passport or valid travel document showing his/her name and photograph, when applying for the ballot paper. Before amendments were introduced to the current legislation, a ballot paper would be issued to an elector only upon the PRO being satisfied with the proof of identity produced by the elector. In any case, electors cannot apply for ballot papers by simply producing a duplicate copy of his/her HKID.

13.51 Besides, section 56 of the EAC (EP) (DC) Reg stipulates that before issuing a ballot paper to an elector, the PRO or polling staff should place a line across the name and identity document number of the elector in the copy of the FR to denote that a ballot paper has been issued to that elector.

13.52 Under the established procedure for issuing ballot papers to electors, the polling staff manning a ballot paper issuing desk work as a team of two. After one staff member has verified the elector’s identity, the other staff member will then verify the elector’s name and identity document number on the FR before placing a line across the name and identity document number of the elector in the register, so as to ensure that the correct entry has been crossed out.

13.53 In this election, an elector claimed that when he/she went to the Hong Kong Baptist Theological Seminary Polling Station of the Sai Kung North Constituency in Tai Po District (Code: P1901) to vote, the polling staff had issued the ballot paper to him/her without first verifying his/her identity document. The elector was concerned that someone else might use his/her identity to re-apply for ballot papers. After preliminary investigation, the REO found that the case might involve illegal conduct and has referred it to the relevant LEA for follow-up

investigation. The candidates of the constituency concerned have been notified of the matter.

13.54 Furthermore, the EAC and the PROs received a total of about 50 complaint cases relating to the issue of “TENDERED” ballot papers in this election. The complainants were dissatisfied that when they applied for ballot papers at their assigned polling stations, they were being informed that the ballot paper had already been issued to another person assuming the same identity earlier on.

13.55 In accordance with section 60 of the EAC (EP) (DC) Reg, if a person representing himself/herself to be a particular elector applies for a ballot paper after a ballot paper has already been issued to another person of the same identity as the elector (i.e. a line has been placed in the FR across the name and identity document number of the elector), the PRO may issue a ballot paper with the words “TENDERED” and “重複” endorsed on the front of it to that person. Such a ballot paper will not be regarded as valid and shall not be counted in vote counting.

13.56 Similar cases had happened in previous elections. There were three possible causes:

- (a) a person might have impersonated an elector to apply for a ballot paper earlier on;
- (b) an elector might have attempted to re-apply for a ballot paper after already casting a vote; or

- (c) polling staff at the ballot paper issuing desk might have inadvertently crossed out a wrong entry in the register.

However, owing to the secrecy of the ballot and in the absence of independent evidence, it is virtually impossible to ascertain the causes of individual cases. When there is evidence suggesting that illegal conduct is involved in a case, the case will be referred to the LEA for follow-up action.

13.57 **Recommendation:** The EAC is pleased to note that with the legislative amendment on the production of identity documents when applying for ballot papers, it has become very clear that electors are required to produce their original HKIDs or other specified alternative documents when applying for ballot papers. As for the incident of an elector being issued with a ballot paper without producing his/her identity document, the EAC is of the view that there is already a set of procedures for the issuing of ballot papers in place under the current mechanism to be followed by polling staff and the candidates or their agents can monitor the ballot paper issuing process at a designated location close to the issuing desks. However, in order to allay electors' concerns and to refine the ballot paper issuing procedures, the REO should explore how to ascertain accurate verification of electors' identity by the polling staff, and to enable electors to witness the crossing out of their entries in the register by the polling staff upon their collection of ballot papers without seeing the information of other electors on the register.

(I) Delivery of Sorted Ballot Papers from Ballot Paper Sorting Stations to Main Counting Stations

13.58 In the 2019 DC Ordinary Election, the REO had set up 20 DPSs in CSD penal institutions to enable registered electors who were imprisoned or remanded by the CSD to vote on the polling day. The REO had also set up DPSs in three police stations to enable registered electors who were remanded or detained by the LEAs other than the CSD to vote on the polling day.

13.59 According to the law, votes cast at the DPSs will not be counted therein. Since electors who cast their votes at DPSs come from different constituencies over the territory, upon the close of poll, all ballot papers cast at DPSs in CSD penal institutions and police stations must be transported to the corresponding BPSSs and sorted according to the constituencies. The sorted ballot papers will then be delivered to the MCS of the relevant constituency, where the PRO will mix them with other ballot papers of that MCS before counting so as to preserve the secrecy of votes (see also paragraph 13.161 below). The poll at all DPSs in CSD penal institutions would close at 4:00 pm. Ballot boxes containing ballot papers (already locked and sealed according to the established procedure) were then transported to the BPSS at the Kowloon Park Sports Centre for centralised processing and sorting per constituency. For the three DPSs in police stations located respectively on Hong Kong Island and in Kowloon and the New Territories, the poll would close at 10:30 pm. Ballot boxes containing ballot papers (already locked and sealed) were then transported to the BPSSs at the Wan Chai Activities Centre, the Cheung Sha Wan Catholic Secondary School and the Toi Shan Association College respectively to go through the same sorting procedure. Because the DPSs at police stations

would close at a later time, those ballot boxes were sent to different BPSSs for time saving.

13.60 According to the REO, ballot boxes from the DPSs in CSD penal institutions arrived at the BPSS at the Kowloon Park Sports Centre from 4:30 pm to around 7:00 pm one after another on the polling day. To ensure safety, the delivery was under escort by the PRO of the DPS and another member of polling staff, with the assistance of a police officer. At the BPSS, the sorting of ballot papers was overseen by the PRO of the BPSS while candidates, their agents, members of the public and the media could also observe at the designated area. The process was open and transparent.

13.61 Under the established procedure for ballot paper sorting, when the PRO of the BPSS had received ballot boxes from the 20 DPSs in CSD penal institutions, the PRO should verify the delivery documents and relevant information, and then open the ballot boxes one by one under the witness of the candidates or their agents, if present. Since the ballot papers belonged to many DCCAs (at most 452), sorting was divided into two stages so that they could be delivered to the respective MCSs efficiently. Firstly, ballot papers from all DPSs were sorted according to the 18 Districts. Thereafter, they will be sorted according to the DCCAs within each District (the number of DCCAs within a District ranged from 10 to 41). The sorting work was completed at about 9:00 pm. The ballot papers already sorted were placed in separate receptacles (a brief case with lock) assigned to the respective DCCAs. Then, the PRO/DPRO of the BPSS verified the relevant forms and locked and sealed the receptacles.

13.62 Regarding the transport of ballot papers to their respective MCSs, there were practical difficulties to deliver them directly from the BPSS to the MCSs across the 18 Districts, given the large number of MCSs involved (over 340) as well as the constraints of location of the BPSS and transport. Hence, the REO would first transport the ballot papers to different emergency depots for the relevant Districts (15 in total after excluding Yau Tsim Mong District, Wan Chai District and Islands District), and staff at each emergency depot would deliver them to different MCSs within the District via pre-arranged delivery routes. More than 80 routes were set for this purpose mainly based on the locations of the MCSs. During transportation, locked and sealed receptacles on the same delivery route would be placed in the same suitcase, which would also be locked to ensure security. For Yau Tsim Mong District and Wan Chai District, the REO had made a special arrangement to directly deliver the ballot papers concerned from the BPSS to their respective MCSs because the two Districts were located closer to the BPSS at the Kowloon Park Sports Centre and fewer delivery routes were involved. For the Islands District, as most of its polling cum counting stations were in remote locations and longer delivery time was required, the REO would directly deliver the ballot papers concerned to the respective MCSs according to the actual need in order to shorten the delivery time. Each ballot paper delivery task mentioned above was carried out by two staff members deployed by the BPSS or the emergency depot and under the escort of police officers. Furthermore, a maximum of two candidates or their agents, if present, could travel together to monitor the whole delivery process.

13.63 On the other hand, the PRO of the BPSS must fax the number of DPS ballot papers to be transported to each constituency's MCS to the SIC upon completion of the sorting per constituency. The SIC would then relay the

information to each MCS to notify whether there would be DPS ballot papers of the constituency concerned to be delivered to that MCS. Under section 76(2) of the EAC (EP) (DC) Reg, the MCS must retain at least one ballot box of ballot papers for mixing with the DPS ballot papers when they arrive. Notwithstanding that, the PRO could still according to the procedure first open other ballot boxes to start the count if DPS ballot papers were to be delivered to the MCS. According to the REO's records, the SIC began to receive reports by the BPSS successively on the numbers of sorted ballot papers from the DPSs concerned at around 9:35 pm on the polling day. The SIC then faxed the consolidated information to each MCS for follow-up by the PRO.

13.64 In this election, the total voter turnout at the DPSs in CSD penal institutions amounted to 1 013, about 42.9% higher than the total of 709 in the last DC ordinary election. The electors concerned belonged to 346 DCCAs, a higher number than 278 in the last DC ordinary election. As a result, it took longer for the BPSS to sort ballot papers and seal receptacles on the polling day. According to the REO, the fleet of vehicles delivering ballot papers departed successively from the BPSS to the emergency depots of the different Districts since about 9 pm on the day, with the last convoy departing at about 11 pm.

13.65 For the three DPSs in the police stations, after the close of poll at 10:30 pm, the PROs of the DPSs were each accompanied by one member of polling staff and the police to transport the locked and sealed ballot boxes to the three corresponding BPSSs for sorting of ballot papers before delivery to MCSs of the respective DCCAs. The process was smooth in general.

13.66 According to the REO, some problems had arisen at certain MCSs upon the receipt of DPS ballot papers on the day. When the DPS ballot papers were delivered to the MCSs by the delivery staff, certain persons at the MCSs queried the delivery arrangement and the origin of the ballot papers. The REO had to send AROs (Legal) to offer assistance and explain to those present the counting procedure for DPS ballot papers. Although eventually the PROs concerned managed to resolve the matter with the help of AROs (Legal), such incidents, after all, indirectly affected the schedule and efficiency of delivery and receipt of ballot papers as a whole.

13.67 Besides, the PROs of certain MCSs did not receive the SIC's fax notifications on DPS ballot papers timely and had to make enquiries with the REO to check the progress and arrangements. According to the record, most MCSs received DPS ballot papers by 1 am following the polling day. For the few of them that experienced delays, the delivery could not be completed until 3 am to 4 am, which had inevitably affected the counting progress of these MCSs.

13.68 **Recommendation:** The EAC notes that the REO has formulated sorting and transportation arrangements for DPS ballot papers, and understands that the REO has also deployed vehicles and manpower needed in accordance with the scheduled delivery routes with a view to delivering the sorted DPS ballot papers to each MCS expeditiously. However, the delivery was affected by the higher number of ballot papers processed by the BPSS and the higher number of constituencies involved, and some PROs being not familiar with the relevant delivery and receipt procedures, as well as certain persons at the venues who queried the delivery arrangement for DPS ballots papers. As a result, certain MCSs experienced delay in the receipt of ballot

papers.

13.69 According to the law, ballot papers from DPSs have to be mixed with ballot papers from the relevant MCSs before counting in order to ensure the secrecy of the votes. Even though it is allowed under current legislation that an MCS could begin counting part of the ballot papers before DPS ballot papers were delivered in order to speed up the count at the MCS, certain MCSs did encounter delay in the process of the count owing to the long delivery time of ballot papers from DPSs.

13.70 The EAC is of the view that the REO should study how to optimise the delivery process and deploy manpower and vehicles in a more flexible way in future elections in order to manage and control more efficiently the time for delivering DPS ballot papers to the relevant MCSs. In addition, the REO should also consider increasing the number of staff at BPSSs so as to effectively cope with the extra workload stemming from the ever rising increase in voter turnout and number of constituencies.

13.71 Moreover, the EAC considers that the REO should strengthen training to explain in detail to PROs of MCSs the procedures for receiving DPS ballot papers sorted by BPSSs, and should notify the PROs concerned on whether there will be DPS ballot papers to be delivered to their MCSs on the polling day soonest practicable. More efficient mode of notifications, such as SMS, should also be considered.

13.72 In view of the rising public concern about electoral matters and the public being unfamiliar with the arrangement for transporting ballot papers cast at different

types of polling stations to the corresponding counting stations, the REO should also enhance publicity to explain to the public the sorting procedure for DPS ballot papers and the transportation arrangement for delivering sorted ballot papers to MCSs, so as to allay any public concern.

(J) Enhancing the Public's Knowledge on the Polling and Counting Arrangements at Special Polling Stations

13.73 Under section 36 of the EAC (EP) (DC) Reg, an elector may only vote at the polling station allocated to him or her. According to section 32 of the EAC (EP) (DC) Reg, in case an elector with mobility difficulties is allocated to a polling station which is not barrier-free, they may apply to the REO for re-allocation to a barrier-free special polling station. The location map of the polling station attached to the poll card will specify whether the polling station allocated to the elector is accessible to electors with mobility difficulties or those who are wheelchair-bound. Should it be necessary, the electors concerned may apply to the REO for re-allocation to a specified special polling station at least five days before the polling day in accordance with the aforementioned regulation.

13.74 In this election, 585 (about 95%) of the 615 ordinary polling stations in the territory set up by the REO were barrier-free polling stations, accessible to electors with mobility difficulties or those who are wheelchair-bound. The remaining 30 non-barrier free ordinary polling stations belonged to 24 constituencies. Hence, the REO had set up a special polling station for each of the 24 constituencies for electors in need and the locations of the special polling stations were published in the Gazette. For 21 of these constituencies, the special polling

station could be set up in a barrier-free ordinary polling station within the same constituency, where the electors of the special polling station could use the white ballot box in the ordinary polling station so located to cast their votes, which could be counted together with other ballot papers in the same ballot box.

13.75 For the remaining three constituencies, the ordinary polling stations therein (four in total) were not barrier-free. Hence, the REO had to set up special polling stations in barrier-free ordinary polling stations of nearby constituencies to facilitate voting by electors with mobility difficulties or those who were wheelchair-bound. The relevant arrangements were as follows:

- (1) the special polling station for the Kennedy Town & Mount Davis Constituency (Code: A07) of Central and Western District was set up inside the Smithfield Sports Centre of the Kwun Lung Constituency (Code: A06) of Central and Western District;
- (2) the special polling station for the Tai Koo Shing East Constituency (Code: C02) of Eastern District (neither of the two polling stations of the constituency was barrier-free) was set up inside the Tai Koo Shing Post Office of the Tai Koo Shing West Constituency (Code: C01) of Eastern District; and
- (3) the special polling station for the Fort Street Constituency (Code: C20) of Eastern District was set up inside the Java Road Sports Centre of the Provident Constituency (Code: C19) of Eastern District.

In respect of these three special polling stations set up in other constituencies, since the electors of the special polling station belonged to a different constituency from that of the electors of the ordinary polling station where the special polling station was located, the REO had provided a small green ballot box for the electors of the special polling station to vote so that it could be clearly distinguishable from the white ballot box of the ordinary polling station. According to the law, the green ballot box at these special polling stations would be delivered to the designated MCS of the original constituency after the close of the poll so that the ballot papers therein would be mixed with those of the MCS before counting (also see paragraph 13.161 below).

13.76 Based on the information provided by the REO, at the close of the poll on the polling day, the APROs of the three special polling stations mentioned above had delivered, under the escort of police officers, the locked and sealed small green ballot box, ballot paper account and sealed packets of other relevant documents from their respective special polling stations to the MCSs of corresponding constituencies. When the ballot papers of the special polling station of Kennedy Town & Mount Davis Constituency (A07) arrived at the MCS located at HKYWCA Western District Integrated Social Service Centre, Victoria Road, Western District (Code: A0701), some people in the MCS raised doubts about the origin of the ballot papers inside the green ballot box due to unfamiliarity with the relevant arrangements. They even surrounded and obstructed the staff concerned from entering the MCS. In the end, staff of the REO and the RO, together with an ARO (Legal) had to go to the MCS to provide assistance to the PRO and explained to the persons concerned the polling and delivery arrangement for special polling stations and the relevant counting procedures before the matter could be resolved. As the incident had affected the

delivery and receipt of the ballot papers of the special polling station concerned, an inevitable delay was caused in the counting of votes at that MCS eventually.

13.77 Recommendation: The EAC sees that the polling and counting arrangement for the aforesaid special polling stations were drawn up in accordance with the legal requirements. The members of the public concerned might lack understanding in this regard and hence had doubts. In fact, in accordance with the subsisting law, the CEO has to designate an MCS for each constituency to receive and count the ballot papers from the special polling station, small polling station and/or DPS. In view of the insufficient knowledge of the public about the arrangement of delivery of ballot papers cast at different types of polling stations to the MCS, the REO should strengthen the training for PROs and step up the publicity in explaining to the public the procedures of sorted ballot papers cast at various types of polling stations, and the legal requirements and practical arrangement for delivering sorted ballot papers to the MCS. If a special polling station has to be set up across the constituencies, the arrangement should be publicised as soon as practicable to dispel unnecessary doubts by the public. And the LEAs should also formulate plans so that reinforcement can be deployed promptly if a polling/counting station were surrounded and/or the electoral staff were intimidated. Besides, in order to enhance transparency, the REO should consider clearly displaying the information inside designated MCSs on the polling day to allow the public to understand the relevant arrangement for the avoidance of recurrence of similar incidents.

(K) Confusion Occurring in the Process of Determination of Questionable Ballot Papers

13.78 In this election, the count at the Po Chui Catholic Secondary School Counting Station (Code: J2601) of the Yau Tong West Constituency (Code: J26) in Kwun Tong District was completed relatively late because disputes had arisen during the determination of questionable ballot papers by the PRO. The PRO was also alleged to have left the counting station and have covered ballot papers with inappropriate objects during the count, causing dissatisfaction among the people thereat. Besides, a candidate had attempted to prevent the PRO from determining questionable ballot papers by leaving the counting station, leading to a halt in the counting process. Due to this series of incidents, some people at the counting station questioned the fairness of the counting results.

13.79 According to the investigation report of the REO, two candidates ran in the Yau Tong West Constituency (J26). Before the commencement of the count at the counting station concerned, the PRO had explained to the two candidates and their agents the difference between valid and invalid ballot papers and the procedures for handling questionable ballot papers by making reference to the samples for determination of validity of questionable ballot papers provided by the REO, and both candidates had indicated their understanding at the time. After the counting staff had finished the sorting of the ballot papers, i.e. separating valid, invalid and questionable ballot papers, the PRO checked the total number of those sorted ballot papers against the total number of ballot papers recorded on the ballot paper account of the polling station. Having ascertained that the two figures tallied, the PRO started to handle the questionable ballot papers.

13.80 In the determination of the validity of a questionable ballot paper with two “✓” signs stamped in the circle for one candidate, the PRO considered that the voting intention of the elector was clear and hence determined it as valid in accordance with the law. However, a candidate and some people at the scene objected to the determination and considered that only ballot papers with just one “✓” sign stamped in the circle were valid. Although the PRO tried to explain to them using the reference samples of determination of questionable ballot papers provided by the REO, they were still dissatisfied. They shouted to stop the process of the determination of questionable ballot papers and even used foul language to abuse the PRO and counting staff. Since the public was noisy and agitated, the PRO had to suspend the determination process and called the REO for assistance.

13.81 After being notified of the situation at the counting station, the REO deployed an ARO (Legal) to provide assistance to the PRO. As it was extremely noisy at the scene, the PRO had to leave the counting zone with the ARO (Legal) briefly to go to a room in the counting station to consult the legal advice. Subsequently, at the request of the people present, the PRO also invited the RO to go to the station to give assistance. During the wait, some people at the scene were concerned that the ballot papers on the counting table might be interfered with, and the PRO used some yellow vests for the counting staff to cover up the plastic boxes containing ballot papers. However, some people raised objections that they could not see clearly the ballot papers covered by the yellow vests and the PRO used transparent plastic bags to cover up the plastic boxes instead. Not until the RO of the constituency had arrived at the counting station did the PRO continue with the determination of questionable ballot papers. At that time, one of the candidates left the counting station, probably due to the fact that the PRO had misinformed him that,

according to the law, all candidates had to be present before the determination of questionable papers could take place. After being reminded by the ARO (Legal) that the counting process (including the determination of questionable ballot papers) would not be interrupted by the absence of any candidate, the PRO immediately asked an APRO to chase up that candidate outside the counting station and explain to him that the counting process (including the determination of questionable ballot papers) did not require the presence of all candidates or their agents, and that the PRO would continue with the determination of questionable ballot papers. However, the candidate still chose to leave the counting station. Although the APRO phoned the candidate again, the latter did not return to the counting station eventually. Therefore, with the assistance of the ARO (Legal), the PRO continued to determine the questionable ballot papers, displaying the ballot papers concerned one by one and explaining his decision to candidates and members of the public at there. The count was concluded at about 6:15 am on 25 November. Ultimately, the total number of all valid ballot papers counted and invalid ballot papers not counted tallied with the total number of ballot papers recorded on the ballot paper account of the polling station.

13.82 **Recommendation:** According to section 58(2) of the EAC (EP) (DC) Reg, an elector shall use the chop with a “✓” sign provided by the REO to place a single “✓” in the circle opposite the name of the candidate of his/her choice on the ballot paper. Under section 76, any ballot paper which appears not to be marked in accordance with section 58(2) will be set aside as a questionable ballot paper and shall be determined by the PRO in accordance with section 79. When making a determination of this type of questionable ballot paper, notwithstanding that the “✓” sign was not placed inside the circle, if the PRO is satisfied that the intention of the

elector is clear, he/she may still determine the ballot paper to be valid in accordance with section 79(3). However, if the PRO considers that the elector so makes a marking on the ballot paper with the “✓” sign from which the elector’s identity can be identified, he/she may determine the ballot paper to be invalid. Any candidate, election agent or counting agent within the counting zone may make representations to the PRO concerning the questionable ballot papers. Section 80 of the EAC (DC) (EP) Reg sets out that the PRO’s decision on any ballot paper is final, and no one is entitled to request the PRO to review his/her decision, which may only be questioned by an election petition.

13.83 The EAC is of the view that the PRO’s determination of the questionable ballot papers and the fact that he/she once left the counting zone for another room in the counting station to consult the ARO (Legal) were not in breach of the relevant regulations and procedures. Nonetheless, the EAC notes that the PRO was not familiar with the EAC (EP) (DC) Reg, and provided a wrong answer to the question raised by one of the candidates regarding the procedure for determining questionable ballot papers. It seems that the candidate did not want the determination of questionable ballot papers to proceed and therefore had left the counting station halfway. Even though clarifications were made to the candidate later on and the count was also suspended during the time, the candidate insisted on leaving, which was his own decision anyway. Be that as it may, it is undesirable that the counting work was delayed.

13.84 Moreover, with regard to the fact that the PRO had used the yellow vests for counting staff to cover up the ballot papers with a view to protecting the counted ballot papers on the counting table from being interfered with, the EAC is of the view

that it was not appropriate for the PRO to do so as it would affect the public's observation of the counting process. The PRO should not have made such a mistake even if under public pressure. The counting process is strictly regulated under the relevant electoral legislation, and it is an offence for a person to destroy, deface, take or otherwise interfere with a ballot paper in use at the election during the counting of votes.

13.85 In conclusion, the EAC considers that although the PRO's handling of requests to cover the ballot papers was inappropriate, there was no interference to the covered ballot papers. And although the PRO had provided a wrong answer to the candidate, it was the candidate's own decision not to be present during the determination of questionable ballot papers. Therefore, the two incidents did not affect the fairness of the electoral procedures. However, the REO should strengthen its training for the PROs in future to prevent recurrence of similar incidents.

13.86 The EAC must point out that the arrangement of allowing the public to enter into the counting station to observe the counting of votes is to facilitate their monitoring of the election, so as to ensure that the election is held in an open, fair and honest manner. Nevertheless, members of the public should comply with the house rules of the counting station and they should not argue, shout or interfere with the counting process. The public should also abide by the ruling on the ballot papers made by the PRO in accordance with the law. The EAC also notes that the chaotic occurrence in the public area of the above counting station was not an isolated incident (also see paragraphs below in relation to the count of the Sing Hong Constituency (Code: S27) of the Kwai Tsing District).

13.87 The EAC considers that the REO should look into ways in determining the maximum capacity of the public area in a counting station in future elections, having regard to the actual circumstance of the counting station, and to record the names of members of the public who enter the counting station. The REO should also look into the staff and equipment for video-recording the entire counting process in the counting zone so as to assist the LEAs with the necessary evidence in future. However, the above recommendation should strike a balance between protecting the public's access to information and maintaining the order at the counting station. Furthermore, the REO must also note the restrictions regarding video-taking in the counting stations under the relevant legislation. Besides, according to section 70 of the EAC (EP) (DC) Reg, the PRO must keep the order at the counting station and if a person misconducts himself/herself, the PRO may order the person to leave the counting station and also the person may be removed by a police officer. According to section 69 of the Regulation, a person who fails to comply with a lawful order given by the PRO at or in the vicinity of a counting station or behaves in a disorderly manner there commits an offence, and is liable to a fine and to imprisonment for three months. As such, the REO should strengthen the training for the electoral staff concerned with respect to keeping order at counting stations, and provide adequate support to them so as to enforce the relevant laws strictly and when necessary, remove the persons who violate the law from the counting station and seek the assistance of police officers to arrest them.

13.88 On the other hand, the REO should also strengthen its publicity and public education on relevant counting procedures (e.g. the PRO's determination of questionable ballot papers and the consideration on a request for recount), in order to enhance the transparency of the elections and ensure that the counting of votes can

be conducted smoothly; and to remind members of the public of the legal consequences if they do not follow the lawful order made by the PRO or misconduct themselves in the counting station.

(L) Dispute over the Request for Recount of Ballot Papers

13.89 During the count at the Lok Sin Tong Leung Chik Wai Memorial School Counting Station (Code: S2701) of the Shing Hong Constituency (Code: S27) of Kwai Tsing District, a large number of ballot papers were set aside as questionable ballot papers. Some people at the counting station, including one of the candidates and her agent, queried the decisions made by the PRO on the questionable ballot papers and requested a recount. However, the request was rejected by the PRO. The persons concerned were very dissatisfied with that. Not only did they not accept the PRO's decision and explanation, they also stopped the polling staff from packing the ballot papers and electoral documents after the completion of the count in accordance with the law. As a result, the venue of the counting station could not be returned to the school until the evening of the day following the polling day.

13.90 According to section 76 of the EAC (EP) (DC) Reg, in the course of counting, the counting staff should sort the ballot papers with reference to the candidate for which the vote has been recorded, and identify and separate the invalid and questionable ballot papers. Invalid ballot papers should not be counted, whereas questionable ballot papers should be forwarded to the PRO to determine whether they are valid and should be counted in accordance with section 79 of the Regulation.

13.91 Moreover, according to section 76 of the EAC (EP) (DC) Reg, a ballot paper will only be set aside as questionable under the following four conditions:

- (1) the ballot paper appears to have any writing or mark by which the elector can possibly be identified;
- (2) the ballot paper appears to be not marked in accordance with section 58(2) of the EAC (EP) (DC) Reg¹;
- (3) the ballot paper appears to be substantially mutilated; or
- (4) the ballot paper appears to be void for uncertainty.

The PRO will determine whether the questionable ballot paper should be counted in accordance with section 79(1) of the EAC (EP) (DC) Reg. Candidates, election agents or counting agents may inspect the questionable ballot paper and make representations to the PRO during the determination process. The PRO will consider the representations and make a final decision on the validity of the questionable ballot paper. Pursuant to section 80 of the EAC (EP) (DC) Reg, the decision of the PRO on a ballot paper is final. If candidates were not satisfied with the decision, they could question the election result only by an election petition under section 49 of the DCO.

¹ According to section 58(2) of the EAC (EP) (DC) Reg, an elector should mark his or her ballot paper with a chop provided by the REO, so that a single “✓” is given in the circle opposite the name of the candidate of the elector’s choice on the ballot paper.

13.92 The counting results will be consolidated and the total number of valid votes for each candidate will be collated only when the PRO has finished handling all questionable ballot papers. According to section 80A of the EAC (EP) (DC) Reg, the PRO must, after the count, make known the result of the counting of votes to the candidates or their agents who are present at the counting zone. Candidates or their agents, having known the result of the count, may request the PRO to count again the counted votes. The PRO may reject the request for recount if he/she considers that the request is not reasonable.

13.93 A total of two candidates contested in the Shing Hong Constituency (S27). The counting of votes commenced at around 11:45 pm on the polling day at the counting station concerned. Following the established procedures, the counting staff sorted the ballot papers as per the candidate numbers and put the invalid and questionable ballot papers aside. According to REO's investigation, a large number of ballot papers, 544 in total, were regarded as questionable ballot papers after sorting. The main reason was that during the sorting process, the candidates, agents and some members of the public present found that there were a considerable number of ballot papers on which the stamped "✓" sign was thickened because of diffused ink. They doubted the validity of the ballot papers and considered that such ballot papers should not be counted. Some of them even shouted which caused disturbance affecting the order at the counting station. In the end, the PRO agreed to treat these ballot papers as questionable and put them aside for handling later.

13.94 After the sorting of ballot papers was completed, the PRO proceeded to determine the validity of the questionable ballot papers one by one in the presence of the candidates and agents in accordance with the procedures under section 79 of

the EAC (EP) (DC) Reg. During the process, the PRO made reference to the samples provided by the REO for the purpose of determining the validity of questionable ballot papers and made a final decision after having considered the representations made by the candidates and agents, as stipulated by the said regulation. In the end, 509 questionable ballot papers were determined to be valid and hence counted, while the remaining 35 were determined to be invalid. Among those determined as valid, most were ballot papers of which the stamped “✓” sign was slightly thickened due to diffused ink, and the PRO was of the view that the intention of the electors was still clear and therefore determined these ballot papers to be valid according to the law.

13.95 The determination of questionable ballot papers finished at around 4:30 am on the day following the polling day. Yet a candidate, the agents of the candidate and a large number of members of the public were dissatisfied with the results of the determination and they did not allow the PRO to announce the counting result before resolving the dispute. They yelled and shouted loudly and kept challenging the PRO on the results of the determination, which caused a chaotic scene at the counting station. Being busy in responding to the queries of the persons concerned, the PRO was unable to formally inform the candidates and agents of the counting results. According to the information provided by the PRO and counting staff, upon conclusion of the determination of questionable ballot papers, the APRO (Statistics) who was responsible for collating statistics completed the calculation of valid votes based on the PRO’s determination. He then wrote the number of valid votes obtained by each candidate on separate sheets and put each sheet onto the transparent plastic box containing the ballot papers of the corresponding candidate. It was believed that the candidates and agents could see the numbers on the sheets.

13.96 The dispute over the questionable ballot papers was still unresolved until 6 am when, at the request of the SIC, the PRO reported the counting results to the SIC by fax. In the meantime, a candidate requested the PRO to display the questionable ballot papers one by one to all people present, and make the determination again and conduct a recount. The PRO maintained that the determination of the questionable ballot papers had been completed in the presence of the candidates and their agents, and he had made the final decision on the questionable ballot papers in accordance with the law, and that it was not permitted under the law for him to re-determine the questionable ballot papers. Furthermore, the counting process as a whole was rigorous, with two members of counting staff checking and verifying the ballot papers one by one. A recount would only be limited to the counted valid ballot papers and no re-determination of the questionable ballot papers was allowed. Therefore, the PRO rejected the request.

13.97 After the SIC had verified the counting results as reported by the PRO in accordance with the established procedure and handed over the verified counting results to the relevant RO for confirmation, the RO then proceeded to announce the election results according to the relevant regulation, thus bringing the count to an end. Subsequently, knowing that the RO had announced the election results and hence a recount was out of the question, the parties concerned at the scene became more discontented. They refused to leave the counting station and did not allow the polling staff to pack the ballot papers and electoral documents. The stalemate continued until 5 pm and eventually, in the company of REO officers and with the police officers helping to maintain order, the counting staff then managed to finish packing the electoral materials in accordance with the law and left the station.

13.98 **Recommendation:** According to the REO's investigation, this incident mainly originated from the thickening of the stamped "✓" sign on some ballot papers caused by diffused ink. It led to doubts about the validity of these ballot papers among candidates, agents and some members of the public present, who subsequently raised their doubts to the PRO during the sorting of ballot papers. The PRO and counting staff set such large number of ballot papers aside as questionable ballot papers under pressure. Subsequently, the PRO determined the questionable ballot papers one by one in accordance with the law and relevant procedures. The PRO considered that the thickening of the stamped "✓" sign on the ballot papers concerned caused by diffused ink was slight, the electors' intention was clear and it could be ascertained that the signs had been affixed with the chop of the polling station. Therefore, the PRO determined that the ballot papers in question were valid but his decision was not understood or accepted by the parties concerned. Nevertheless, section 80 of the EAC (EP) (DC) Reg stipulates that once a PRO has made a decision on the questionable ballot papers, the decision is final. No one is allowed to request the PRO to review the decision, which may only be questioned by an election petition.

13.99 The EAC considers that the PRO's determination of the questionable ballot papers and the refusal of the request for re-determination of questionable ballot papers are in line with the relevant regulations and procedures. On the other hand, the EAC notes that according to the sample ballot papers provided by the REO for the reference of PROs, a ballot paper stamped with a thickened "✓" sign due to diffused ink is clearly classified as valid. As long as the PRO is satisfied that the "✓" sign on the ballot paper is marked with a chop of the polling station and that it is marked in the circle corresponding to the candidate of the elector's choice, then

the ballot paper is valid and there is no need to set it aside as questionable. In this regard, the EAC is of the view that the performance of the PRO has room for improvement. He should not have handled those valid ballot papers as questionable just because of queries raised by some people present. Nevertheless, the EAC appreciates that the PRO was facing enormous pressure from the public. The REO should strengthen the training and guidance for PROs and electoral staff on the determination of questionable ballot papers. In addition, the REO should consider prominently displaying in counting stations the sample ballot papers for determining the validity of questionable ballot papers in future elections in order to enable the public to have a better understanding and to dispel their doubts. In parallel, the REO should also step up the publicity and educational campaign for the sake of strengthening the knowledge of the general public about the arrangements on the determination of questionable ballot papers.

13.100 The EAC also notes that the PRO had neither officially informed the candidates and agents at the scene of the counting result after the count was finished, nor advised the SIC of the disagreement of the candidates and agents on the determination of questionable ballot papers when he reported the counting result. The EAC understands that as the counting station was in chaos and there were a large number of people strongly and persistently requesting the PRO to re-determine the questionable ballot papers, and the PRO was under enormous pressure and busy with responding and explaining to the persons concerned. Nevertheless, the EAC considers that it was undesirable that the PRO did not strictly comply with the relevant regulations and procedures in handling the counting results. Fortunately, the impartiality of the electoral procedures was not compromised.

13.101 In view of this incident, the REO should in future elections strengthen the training and guidance for PROs and electoral staff on counting procedures, and provide sufficient support to them so as to keep the order at the counting stations and ensure that they would be able to discharge their duties smoothly. Besides, the REO should also strengthen the publicity and educational campaign on the counting procedures in order to enhance the transparency of elections, ensure the smooth running of the counting process, and avoid the recurrence of similar incidents.

(M) Packing, Delivery and Storage of Electoral Documents After the Close of Poll

13.102 According to the law, polling staff must submit all electoral documents to the CEO for safe custody after the election for at least six months from the date of the election to which they relate. The CEO must then destroy the electoral documents unless directed by a court order in relation to an election petition or criminal proceedings.

13.103 The REO confirmed on 9 April 2019 the loss of the FR of the polling station located at the SKH Tsing Yi Estate Ho Chak Wan Primary School in Kwai Tsing District in the 2016 LegCo General Election. The FR concerned contained the personal particulars, including name, gender, address and identity card number, of registered electors who were assigned to vote in that polling station. It also showed whether the electors had collected their ballot papers at that polling station and the number of ballot papers each of them might be issued but not their choices made on the votes.

13.104 In view of the seriousness of the incident, the EAC had launched a

comprehensive investigation and review of the incident. The objectives of the investigation and review were to find out the underlying facts and identify the problems relating to the electoral arrangements as well as overall management of the REO with a view to recommending improvement measures. The EAC had published an independent investigation report on 24 July 2019 upon completion of the investigation. The investigation revealed shortcomings of the REO in the handling of electoral documents after the 2016 LegCo General Election, including the packing, checking, collection, delivery, storage and retrieval of electoral documents. A number of recommendations have been made in the investigation report to further improve the procedures for handling electoral documents and materials.

13.105 Following the EAC's recommendations, the REO has introduced a series of improvement measures to the packing, delivery and storage of electoral documents for this election in order to handle the relevant electoral documents more properly.

Packing and Delivery of Electoral Documents

13.106 Polling staff should pack and deliver all electoral documents (including ballot papers and marked FRs) to designated collection centres ("DCCs") of the respective District for temporary storage after the election until collection by the REO for centralised storage. In this election, the REO has clearly specified how various types of electoral documents should be packed, including: the PRO must put all ballot papers and counterfoils into red plastic bags, and lock them in suitcases; and for easy identification, the marked FR must be put into a yellow plastic bag and then put inside a red plastic document box for delivery. The delivery and receipt

procedures of the DCCs were also enhanced. Upon arrival of the electoral documents at a DCC, the DCC staff and APROs must check the items against the information on the delivery note one by one. After the types and quantities of the various packets of electoral documents were verified to be accurate, they should sign on the delivery note for confirmation before the PRO sealed the electoral documents with a sealing certificate.

13.107 In addition, the DCCs were provided with filing cabinets with bar-locks by the REO. The DCC staff and APROs should, after completion of the above check, immediately lock the sealed yellow plastic bags containing the marked FRs and other electoral documents in the cabinets for safekeeping.

13.108 Security guards were also hired by the REO to station at the DCCs to strengthen security for the electoral documents deposited there until transfer to the REO Store. For transfer of electoral materials from DCCs to the REO Store, at least two REO staff members would be deployed to each DCC to monitor the packing by the transportation contractor, count and check the electoral materials (including the aforementioned locked suitcases and filing cabinets) and escort the delivery to the REO Store. Staff at the REO Store should verify the types and quantities of the electoral materials again upon receipt and put them under safe custody.

Identifying a Store for Centralised Storage of Electoral Documents

13.109 As mentioned in paragraph 13.102 above, all electoral documents (including ballot papers and marked FRs) should be packed and delivered by polling staff to DCCs after the election. After being counter-checked and acknowledged

receipt by the DCC staff, these documents would be deposited temporarily at DCCs pending collection and transfer by the REO to its stores.

13.110 In the past, due to restrictions on space to hold all the electoral documents, the REO had to keep these documents in multiple stores. To enhance the management of electoral documents and maintain efficient and orderly document storage and retrieval, with the help of the Government Property Agency (“GPA”), the REO had identified a spacious store for centralised storage of the electoral documents to be collected from all DCCs in this election.

13.111 **Recommendation:** The EAC is pleased to learn that the REO has implemented improvement measures on the packing, delivery and storage of electoral documents for this election and would like to thank the GPA for its help in identifying the store. The REO should continue to put in place and refine the relevant measures in future elections to ensure safe and proper custody of electoral documents.

(N) Application of Information Technology to Enhance the Polling and Counting Procedures

13.112 Since a large number of electors turned up at the polling stations during the early polling hours on the polling day of this election, there were queues at certain polling stations. There were views suggesting that the REO should use IT to expedite the voting process.

13.113 As a matter of fact, the EAC had also received similar views in the past

and made a recommendation in the Report on the 2016 LegCo General Election that the REO should carry out comprehensive and in-depth feasibility studies on the use of IT to facilitate the election process. The EAC notes that the REO is currently conducting a detailed study on the recommendation relating to use of electronic registers of electors at polling stations. Putting the recommendation into practice would facilitate flexible deployment of manpower in the polling stations, make good use of space, increase the efficiency of issuing ballot papers, expedite the voting process and thus channel the flow of electors. However, technical problems which may be encountered in actual operation have yet to be resolved, such as the considerable time required for installing the relevant IT equipment in a large number of polling stations, the provision of technical support on the polling day, etc.

13.114 The REO is also studying how to implement electronic vote counting in future elections so as to expedite the counting process. And the size of a ballot paper has direct implication on the feasibility of implementation. Taking the 2016 LegCo General Election as an example, there were as many as 22 candidate lists in one of the GCs and the size of the ballot paper for the GC reached 440 mm (in width) x 428 mm (in length). Should the design of the ballot paper remain the same, currently no counting machine in the market is capable of handling ballot papers of such size.

13.115 Apart from the size of ballot papers, it should also be noted that the polling-cum-counting arrangement is adopted for both DC and LegCo GC elections at present. Since the counting process is dispersed across over 600 counting stations, it is not operationally feasible to employ counting machines in a centralised manner. On the other hand, it is not cost effective to install counting machines in

more than 600 counting stations. Therefore, there will be practical difficulties in introducing electronic vote counting in elections for which the polling-cum-counting arrangement is adopted.

13.116 Nevertheless, the REO is exploring the feasibility of implementing electronic vote counting in functional constituencies (“FCs”) for which centralised counting arrangement is adopted. With regard to the DC (Second) FC, pursuant to section 54(3) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D), an elector must fold his/her ballot paper and then put it into the ballot box. This is to prevent the elector from displaying his/her choice on the ballot paper inside the polling station. In view of this, after conducting detailed testing of the counting machines identified from the market, the REO found that jamming would occur when it came to the handling of folded ballot papers. Hence, there will be practical difficulties in implementing electronic counting of votes in the election concerned on the premise that the existing legislation requires electors of the DC (Second) FC to fold their ballot papers. Furthermore, with the increase in the number of candidate lists, the size of the ballot papers for the DC (Second) FC will become larger, which may exceed the limit which counting machines can handle.

13.117 **Recommendation:** The EAC is of the view that computerisation of the electoral process should be the way forward. Nevertheless, the acceptance by the public should be carefully considered when implementing electronic voting. In any case, with the development of IT, the REO should continue to carry out studies to assess the feasibility of using IT in different aspects of the election process with a view to making better voting and counting arrangements.

(O) Media Reports on the “Reversal” of Election Results

13.118 In the early morning of the day following the polling day, it was reported in the media that the election results at two counting stations were reversed due to a discrepancy in the results between the first count and recount. Subsequently, the EAC received numerous complaints from members of the public questioning the impartiality of the counting work at the counting stations concerned, namely the Pei Ho Street Sports Centre Counting Station (Code: F0701) (“the Pei Ho Street Counting Station”) of the Nam Cheong Central Constituency in Sham Shui Po District and the Fei Ngan Kindergarten Counting Station (Code: J1902) (“the Fei Ngan Counting Station”) of the Lam Tin Constituency in Kwun Tong District. After investigation, the REO found that the relevant media reports were not accurate, and inconsistent with the actual situation and results of the counts.

13.119 According to sections 79 and 80 of the EAC (EP) (DC) Reg, the PRO shall make decisions on questionable ballot papers. Candidates, election agents or counting agents may make representations to the PRO concerning the questionable ballot paper and the decision of the PRO on it is final. The decision may be questioned only by an election petition in accordance with sections 49 and 50 of the DCO. Sections 80A and 80B of the EAC (EP) (DC) Reg allow a candidate or his/her election agent to request the PRO to count again the counted votes or recounted votes after having been informed of the counting results. If the PRO considered the request reasonable, he/she will decide to count again.

Counting Station in the Nam Cheong Central Constituency

13.120 It was reported by certain media that after the completion of the first count at the only counting station in the Nam Cheong Central Constituency (F07) - the Pei Ho Street Counting Station (F0701), candidates no.1 and no. 2 had 1 501 and 1 500 votes respectively. However, after a recount at the request of a candidate, candidates no.1 and 2 received 1 538 and 1 640 votes respectively, thereby reversing the election result. The reports gave members of the public an impression that there was a difference of more than a hundred votes between the two counts and they therefore queried the impartiality and neutrality of the counting staff.

13.121 According to the REO's investigation, in fact, no recount was conducted after the completion of the first count at the Pei Ho Street Counting Station (F0701). The records show that after the sorting of ballot papers was completed but before the determination of the questionable ballot papers, candidates no.1 and 2 received 1 518 and 1 509 votes respectively. However, after the determination of the questionable ballot papers, candidates no.1 and 2 received 1 538 and 1 640 votes respectively. Therefore, the so-called "reversal of election result" was only a misunderstanding where the media mistook the number of votes of the candidates before the determination of questionable ballot papers as the counting "results". Further details are set out below.

13.122 On the night of the polling day, after the start of the count at the Pei Ho Street Counting Station (F0701), the counting staff sorted the ballot papers according to the candidates being voted for while putting aside invalid and questionable ballot papers found in the process in accordance with the established procedure.

According to the records, after the sorting of ballot papers, candidates no.1 and 2 received 1 518 and 1 509 valid votes respectively while 10 invalid ballot papers were found. In addition, 154 ballot papers were set aside as questionable ballot papers. The PRO had to determine their validity and which candidate they should count towards. Since a candidate and her agent queried the validity of some ballot papers on which the stamped “✓” sign was thickened due to diffused ink during the sorting process, the PRO had set those ballot papers aside as questionable ballot papers in order to allay their concerns. Hence, a relatively large number of ballot papers (154 in total) were regarded as questionable ballot papers.

13.123 After the ballot papers were sorted, the PRO determined the validity of the questionable ballot papers one by one before the candidates and their agents in accordance with the established procedure. In the end, 151 of the 154 questionable ballot papers were determined to be valid while the remaining 3 were determined to be invalid. Among the 151 questionable ballot papers determined to be valid, 20 counted towards the number of valid votes of candidate no.1 and the remaining 131 counted towards the number of valid votes of candidate no.2. Taking into account the results of the determination of questionable ballot papers and the numbers of votes after the sorting of ballot papers (see paragraph 13.122 above), candidates no.1 and 2 received in total 1 538 and 1 640 votes respectively where 13 invalid ballot papers were found. The PRO made known the counting result to both candidates and their agents before asking them whether they would request a recount in accordance with the established procedure. As both candidates and their agents confirmed that there was no need for a recount, the PRO proceeded to report the counting result to the SIC by fax. The SIC verified the counting result and submitted it to the RO for confirmation. The RO then announced the election result,

bringing the counting process to an end.

13.124 As seen from the above, there was no recount as reported by the relevant media after the completion of the first count at the counting station concerned, let alone a reversal of election result.

Counting Stations in the Lam Tin Constituency

13.125 It was also widely reported in the media that the election result of the Lam Tin Constituency (J19) was “reversed” after a recount. It was reported that after the first count, a candidate received 10 votes more than another candidate. As there were over 100 questionable ballot papers at the Fei Ngan Counting Station (J1902) of the constituency, after a recount, the former candidate ultimately lost to the latter in the election with a difference of 50 votes. The report also stated that certain candidate and persons in the Fei Ngan Counting Station (J1902) were dissatisfied with the PRO’s decision on the questionable ballot papers and requested a further recount, but to no avail. The media reports were at odds with the actual situation.

13.126 According to the investigation result of the REO, after the first count at the Fei Ngan Counting Station (J1902), the PRO noted a discrepancy of 2 between the total number of ballot papers counted and the total number of ballot papers estimated to have been placed in the ballot box recorded on the ballot paper account. Thus, a recount was conducted on his own motion. The result of the recount showed that there was a difference of 2 between the total number of ballot papers counted with the result of the first count. However, the number tallied with the

estimated number of ballot papers recorded on the ballot paper account. Accordingly, the election result was not reversed at all. Details are set out in the following paragraphs.

13.127 Based on the information provided by the REO, there were a total of two counting stations in the Lam Tin Constituency (J19), namely the Fei Ngan Counting Station (J1902) and SKH Tak Tin Lee Shiu Keung Primary School Counting Station (Code: J1901) (“Lee Shiu Keung Counting Station”). The former was designated as the dominant counting station for consolidating the counting results of all the counting stations of the constituency.

13.128 Regarding the Lee Shiu Keung Counting Station (J1901), the count was concluded at about 3 am on the day after the polling day. According to the records, candidates no. 1 and 2 received 1 650 and 1 315 votes respectively and the number of invalid ballot papers was 26. The PRO informed the agents at the scene of the counting result and they did not request for a recount.

13.129 As for the Fei Ngan Counting Station (J1902), after the commencement of the count, the counting staff first sorted the ballot papers according to the procedures. Candidates no. 1 and 2 received 2 366 and 2 698 valid votes respectively and the number of invalid ballot papers was 24. And, there were 100 questionable ballot papers of which the validity had to been determined by the PRO in accordance with section 79 of the EAC (EP) (DC) Reg. When handling the questionable ballot papers, the PRO first explained to the two candidates and their agents the criteria of the determination of the validity of questionable ballot papers by referring to the samples provided by the REO. Then, the PRO determined the validity of the

questionable ballot papers one by one in front of them. Having made reference to the aforesaid samples of ballot papers and considered the representations made by the candidates and agents, the PRO decided the validity of the questionable ballot papers one by one under the law. At the end, 84 of 100 questionable ballot papers were determined valid and counted as the valid votes of the candidates (candidates no. 1 and 2 received 65 and 19 votes respectively), while the remaining 16 were determined to be invalid. Consolidating the results of the determination of questionable ballot papers and the sorting of ballot papers at the Fei Ngan Counting Station (J1902), the total numbers of votes received by candidates no. 1 and 2 were 2 431 and 2 717 respectively, while the number of invalid ballot papers was 40 (see Table 1 for breakdown).

Table 1: Results of the First Count at the Fei Ngan Counting Station (J1902)

	Numbers of valid/invalid ballot papers before the determination of questionable ballot papers	Numbers of ballot papers sorted after the determination of questionable ballot papers	Total
Number of valid votes received by candidate no. 1	2 366	65	2 431
Number of valid votes received candidate no. 2	2 698	19	2 717
Number of invalid ballot papers	24	16	40
Total	5 088	100	5 188

13.130 Consolidating the results of the first count at the Lee Shiu Keung Counting

Station (J1901) and the Fei Ngan Counting Station (J1902), the numbers of votes that candidates no. 1 and 2 of the Lam Tin Constituency (J19) received were 4 081 and 4 032 respectively, while the number of invalid ballot papers was 66 (see Table 2 for breakdown).

Table 2: Results of the First Count of Lam Tin Constituency (J19)

	Lee Shiu Keung Counting station (J1901)	Fei Ngan Counting Station (J1902)	Total
Number of valid votes received by candidate no. 1	1 650	2 431	4 081
Number of valid votes received by candidate no. 2	1 315	2 717	4 032
Number of invalid ballot papers	26	40	66
Total	2 991	5 188	8 179

13.131 During the process, some persons at the Fei Ngan Counting Station (J1902) were dissatisfied with the determination results and shouted inside the counting station, causing a scene. Being notified of the situation, the REO deployed an ARO (Legal) to the counting station to assist the PRO in explaining the relevant legislation on questionable ballot papers and the criteria of determining the validity of questionable ballot papers to the persons concerned.

13.132 After the PRO of the Fei Ngan Counting Station (J1902) had informed the candidates and agents present of the result of the first count, it was found that the total number of valid and invalid ballot papers (5 188) differed from the estimated

total of ballot papers recorded (5 186) on the ballot paper account of the polling station by two. The PRO therefore decided to conduct a recount with no objection from the candidates present in the counting station.

13.133 During the recount, certain candidates and agents questioned the validity of some ballot papers (such as those on which the stamped “✓” sign was thickened due to diffused ink), while some members of the public got very emotional and kept yelling and shouting at the counting staff. In view of the situation, the PRO agreed that a total of 198 ballot papers that were originally sorted as valid ballot papers would be put aside as questionable ballot papers. With the assistance of the ARO (Legal), the PRO determined the validity of the 198 questionable ballot papers one by one in accordance with the established procedures, where in the end 197 questionable ballot papers were determined as valid and counted as the valid votes cast for the respective candidates (number of votes received by candidate no. 1 was 59, while number of votes received by candidate no. 2 was 138), and only one of the questionable ballot papers was determined as invalid.

13.134 The recount of votes at the Fei Ngan Counting Station (J1902) was completed at around 12:00 noon on the day after the polling day. The recount result was that the total numbers of votes received by candidates no. 1 and 2 were 2 430 and 2 715 respectively, and the number of invalid ballot papers was 41 (a detailed breakdown is at Table 3). The total number of recounted votes (5 186) tallied with the estimated total recorded on the ballot paper account of the polling station. The recount result showed that the total number of ballot papers from the first count was miscalculated by two additionally, and that after the re-determination of the questionable ballot papers during the recount, the number of invalid ballot papers

increased by one when compared with the result of the first count.

Table 3: Recount Result of the Fei Ngan Counting Station (J1902)

	Numbers of valid/invalid ballot papers before the determination of questionable ballot papers	Numbers of ballot papers sorted after the determination of questionable ballot papers	Total
Number of valid votes received by candidate no. 1	2 371	59	2 430
Number of valid votes received by candidate no. 2	2 577	138	2 715
Number of invalid ballot papers	40	1	41
Total	4 988	198	5 186

13.135 After the candidates were informed of the recount result of the Fei Ngan Counting Station (J1902), a request was made to the PRO for a third count. The PRO considered that a recount of votes was already conducted at the counting station and the result differed only slightly from that of the first count. After consultation with the ARO (Legal), the PRO considered that the request was unreasonable and hence rejected it. The PRO subsequently reported the recount result to the SIC via fax.

13.136 Upon consolidation and verification of the counting results of the two counting stations in the Lam Tin Constituency (J19), the SIC notified the PRO of the Fei Ngan Counting Station (J1902) about the counting result of the constituency as a whole via fax. The total numbers of votes received by candidates no. 1 and 2 were

4 080 and 4 030 respectively, and the number of invalid ballot papers was 67 (a detailed breakdown is at Table 4).

Table 4: Counting Result of the Lam Tin Constituency (J19)
after the Recount at the Fei Ngan Counting Station

	Lee Shiu Keung Counting Station (J1901)	Fei Ngan Counting Station (J1902)	Total
Number of valid votes received by candidate no. 1	1 650	2 430	4 080
Number of valid votes received by candidate no. 2	1 315	2 715	4 030
Number of invalid ballot papers	26	41	67
Total	2 991	5 186	8 177

13.137 After the PRO informed the candidates and agents present of the counting result of the constituency, a request was made to the PRO for a recount of votes of all the counting stations in the constituency. The PRO considered that a recount of votes had already been conducted at the Fei Ngan Counting Station (J1902) and the result differed only slightly from that of the first count and therefore rejected the request for recounting all the votes of the constituency. According to the information provided by the REO, at that time, the SIC had already released the election result to the RO for announcement and the result had also been uploaded onto the dedicated election website.

13.138 **Recommendation:** The EAC notes that the media reports on the “reversal” of election results of the Nam Cheong Central Constituency (F07) and

Lam Tin Constituency (J19) were not accurate, not in accordance with the actual situation and results of the counts mentioned above. Regarding the Nam Cheong Central Constituency (F07), the media might have mistaken the numbers of the valid votes received by the candidates after the PRO's determination of the questionable ballot papers as the results of the recount. As for the Lam Tin Constituency (J19), the counting results in Tables 2 and 4 above showed that the results of the first count was in line with the recount of the constituency, with only a slight difference in figures, and there was no "reversal" of election result as reported by the media. The EAC deeply regretted that the public might have been misled by such reports on the counting work of the counting stations concerned, and hence became anxious and/or suspicious of the fairness of the counts. The EAC is of the view that the REO should step up its publicity to deepen the knowledge and understanding of the public (including the media) of the counting procedures, and strengthen the training for PROs so that they could explain the counting procedures to the candidates, their agents, the media and members of the public at the scene whenever necessary to avoid misunderstanding and dispel doubts, and minimise the chance of recurrence of similar incidents.

13.139 On the counting procedures, the EAC notes that both PROs of the Pei Ho Street Counting Station (F0701) and Fei Ngan Counting Station (J1902) had set aside the ballot papers on which the stamped "✓" sign was thickened due to diffused ink as questionable ballot papers in response to the queries by the candidates, agents and persons at the scene, resulting in quite a large number of questionable ballot papers. In fact, in the samples of ballot papers provided by the REO for the reference of the PROs, it was clearly specified that ballot papers with a blurred and thickened "✓" sign were clearly valid. The EAC considers that if a PRO is satisfied that the "✓"

sign has been marked on the ballot paper using a chop provided in the polling station, and the “✓” sign has been marked in the circle corresponding to the candidate chosen by the elector, the ballot paper should be valid and it is unnecessary to set aside this kind of ballot papers as questionable in order not to prolong the counting time. However, when the “✓” sign has been marked using a chop provided in the polling station but not inside the circle corresponding to the candidate of the elector’s choice, the ballot paper should be set aside as a questionable ballot paper. If the PRO considers that the voting intention of the elector is clearly expressed, he/she may still determine the ballot paper as valid according to section 79 of the EAC (EP) (DC) Reg. The REO should strengthen the training for the PROs and polling staff on determination of ballot papers, and consider clearly displaying samples used as reference in determining the validity of questionable ballot papers inside the counting stations so as to enhance the understanding of the public and dispel their doubts. Meanwhile, the REO should step up its publicity and education efforts to deepen the knowledge of the public about the determination of questionable ballot papers.

13.140 Regarding the issue of counting at the Fei Ngan Counting Station (J1902) of the Lam Tin Constituency (J19), a candidate had again requested to recount the recounted votes of the polling station but the PRO was of the view that a recount had been conducted at the counting station and the result was only slightly different from that of the first count and hence rejected the request. According to the law, if the PRO considers a candidate’s request for a recount unreasonable, he/she may not accept it. The EAC is of the view that there is no evidence to suggest that the decision of the PRO is unreasonable because: a recount had been conducted at the Fei Ngan Counting Station (J1902); the reason for the difference between the total number of ballot papers after the first count and the total number of ballot papers

estimated to be in the ballot box recorded on the ballot paper account of the polling station had been found after the recount and the problem of discrepancy had been resolved; and there was a significant margin of 285 valid votes between the two candidates.

13.141 Regarding the issue that a candidate's request for recounting the votes of all the counting stations of the Lam Tin Constituency (J19) was rejected by the PRO of the dominant counting station, i.e. the Fei Ngan Counting Station (J1902), the PRO's decision was on the ground that a recount had been conducted at the Fei Ngan Counting Station (J1902). The EAC is of the view that the PRO's reason for the rejection of the recount was inadequate because when there were two counting stations in a constituency and a recount had been conducted at only one of them, a recount for the constituency as a whole should not be impeded. In addition, it was not appropriate for the SIC to have the counting result of the Lam Tin Constituency relayed to the RO for announcement before confirming with the PRO of the dominant counting station whether a recount for the constituency as a whole was required, resulting in the entire counting process coming to an end and that a recount was impossible. The REO should review the relevant procedures of the SIC by specifying the circumstances under which the SIC can treat the counting result as the final election result to be submitted to the RO for announcement so as to prevent the recurrence of similar incidents.

(P) Printing and Checking of Ballot Papers

13.142 At noon on the polling day, a member of polling staff at a ballot paper issuing desk in the Carmel Leung Sing Tak School Polling Station (Code: J1001)

(“Leung Sing Tak Polling Station”) of the On Lee Constituency (Code: J10) of the Kwun Tong District found that a ballot paper did not belong to the On Lee Constituency (J10) when issuing the ballot paper to an elector. The issue was then brought to the attention of the PRO for instruction at once. After checking, the PRO confirmed that the ballot paper was for the Fei Tsui Constituency (Code: C14) of the Eastern District. He immediately notified the election agents present of the matter, stamped the ballot paper with the word “SPOILT” and placed it in the relevant envelope in accordance with the established procedure. The elector concerned was then issued with a ballot paper for the On Lee Constituency (J10). According to the law, the “SPOILT” ballot paper would not be counted in the counting of votes. Subsequently, the PRO reported the incident to the REO and reminded the polling staff to pay extra attention when issuing ballot papers to electors. No similar issue occurred thereafter.

13.143 On the night of the polling day, during the counting of votes at the Leung Sing Tak Polling Station (J1001) of the On Lee Constituency (J10), a member of polling staff found another ballot paper for the Fei Tsui Constituency (C14) stamped with a “✓” sign. The staff then placed it into a plastic box containing questionable ballot papers for the PRO to decide how to handle it. Later, during the process of determination of questionable ballot papers, the PRO took the said ballot paper, which in fact belonged to the Fei Tsui Constituency (C14), from the plastic box containing questionable ballot papers, displayed it to the two candidates and their election agents, and explained to them that the ballot paper did not belong to the On Lee Constituency (J10) and hence should not be counted. One of the candidates raised objection to the PRO’s determination at the time. The PRO then called the REO for legal advice. Pursuant to the legal advice sought, the PRO subsequently

confirmed that the said ballot paper was not a valid ballot paper for the On Lee Constituency (J10) and would not be counted.

13.144 After the election, the REO had investigated the incident and obtained relevant information from the Government Logistics Department (“GLD”), which was responsible for the printing of the ballot papers. According to the information provided by the REO, as in past public elections, the GLD was responsible for the printing of all the ballot papers for this election. The REO worked out the number of ballot papers to be printed for each constituency based on the number of registered electors of each constituency with an addition of 30% for reserve purpose. All of these printed ballot papers were sent to the REO for polling purpose. Besides, the GLD printed a small amount of extra ballot papers for each constituency as its internal reserve, so as to replace the spoilt ballot papers or the ballot papers of substandard printing quality. According to the GLD’s records, the breakdown of the numbers of ballot papers printed for the On Lee Constituency (J10) and the Fei Tsui Constituency (C14) is as follows:

Table 1: Number of Printed Ballot Papers

	Number of ballot papers printed for the REO for polling purpose	Additional Number of ballot papers printed for GLD’s internal reserve	Total
On Lee Constituency (J10)	12 700	760	13 460
Fei Tsui Constituency (C14)	12 500	760	13 260

13.145 After the ballot papers were printed and bound, the GLD arranged its staff

to conduct an internal quality checking to ensure that the printing quality of the ballot papers met the standard before they were delivered to the REO. If substandard ballot papers were found in the checking, they would be replaced by the internal reserve ballot papers. The substandard ones would be kept properly in accordance with the procedures before they were destroyed together with other reserve ballot papers. The GLD had put in place various security measures for the printing of ballot papers for this election, such as all the ballot papers had been stored in the warehouse equipped with closed-circuit television and other proper security systems, and all the remaining internal reserve ballot papers would be destroyed in accordance with the established procedure of the Government for handling confidential documents in the end.

13.146 After the GLD had delivered the ballot papers to the REO, the REO arranged its staff to count the numbers of the ballot papers and check them one by one to ensure that each of them was unstained and unmarked. The REO pointed out that, during the internal checking process, among the ballot papers for the On Lee Constituency (J10), they did not notice any misprints or any ballot paper not belonging to the constituency, nor did they find the two ballot papers for the Fei Tsui Constituency (J10) as mentioned above.

13.147 On the other hand, according to the investigation conducted by the GLD on the incident, when the staff of the department conducted the internal quality checking on the ballot papers of the On Lee Constituency (J10), they found that two ballot papers, out of a stack, needed to be replaced due to the poor printing quality. The two ballot papers were wrongly replaced by two ballot papers for the Fei Tsui Constituency (C14) and then bound with other ballot papers for the On Lee

Constituency (J10). According to the GLD, when the internal quality checking was conducted, the checking on the ballot papers for the Fei Tsui Constituency (C14) was done first and the checking on those for the On Lee Constituency (J10) was done subsequently on the same table. As such, it was possible that when the staff was checking and replacing the relevant ballot papers for the On Lee Constituency (J10), the ballot papers for the Fei Tsui Constituency (C14) was still on the same table. The staff concerned might probably have made the said mistake under time pressure. The investigation did not indicate any evidence to suggest the mistake was willful. The GLD also confirmed that the two replaced ballot papers for the On Lee Constituency (J10) have been kept in safe custody in accordance with the procedures and would be destroyed together with other reserve ballot papers in due course.

13.148 During the investigation, the GLD had also re-examined the inventory records of the internal reserve ballot papers for the two constituencies concerned. According to the records, the numbers of the ballot papers (including those that were replaced) currently under the custody of the GLD and not delivered to the REO are as follows:

Table 2: Quantity of Reserve Ballot Papers Currently Kept at GLD

	Quantity of Reserve Ballot Papers Currently Kept at GLD (ballot papers reserved for internal use and taken out for replacement)
On Lee Constituency (J10)	762(+2)
Fei Tsui Constituency (C14)	758(-2)

The GLD found that the number of the ballot papers for the On Lee Constituency (J10), which were in its inventory and not delivered to the REO, exceeded the original number by two, including the two ballot papers which were taken out and required replacement due to poor printing quality, while the number of the relevant ballot papers for the Fei Tsui Constituency (C14) was less than the original by two as two ballot papers for the constituency had been placed inside a stack of the ballot papers for the On Lee Constituency (See Table 2). As explained above, upon its investigation, the GLD believes that the said discrepancy was caused by human error that two ballot papers for the On Lee Constituency (J10) had been wrongly replaced by two for the Fei Tsui Constituency (C14) by the staff concerned in the course of the internal quality checking. Nonetheless, as the total number of the reserve ballot papers for the two constituencies tallies with the original number, there is no situation of accidental loss of ballot papers.

13.149 **Recommendation:** The EAC considers that the incident is serious as it has inevitably affected public confidence in the handling of ballot papers by the relevant departments. Nevertheless, the incident had no impact on the final election results. No willful act in contravention of the electoral legislation had been found in the investigation, and it could not be ruled out that human negligence might be the cause of the incident according to the circumstantial evidence. However, any situation where there is an opportunity to wrongly issue to an elector a ballot paper for a constituency to which he/she does not belong will affect the rigour of the election process. It is also absolutely unacceptable that among a stack of ballot papers for a constituency, there are ballot papers for another constituency mixed with them. Although the REO and GLD had put in place respectively multiple checking measures in the process to ensure that the ballot papers were in order, the incident

revealed that the relevant measures were not watertight and the performance of their staff concerned was found wanting.

13.150 The EAC urges the REO and GLD to learn from the experience of the incident and formulate clearer working procedures in order to enhance the professionalism in the checking of ballot papers. In particular, the two departments should take the follow-up actions as below:

- (1) the GLD should review the working procedures for printing and checking of ballot papers, and in particular devise more stringent arrangements for the process of replacing ballot papers. It should be required that only the ballot papers for one constituency can be checked on the working desk each time and before it is completed, the checking for another constituency cannot be started. Besides, the GLD should also explore whether it is possible to deploy two senior officers to approve and cross-check the replacement of ballot papers in order to ensure the accuracy and avoid the recurrence of similar incidents;
- (2) regarding the REO's internal checking of ballot papers, it should re-examine the rigour of the process and remind the staff that they should conduct the checking more thoroughly and carefully; and
- (3) in addition, as far as staff training is concerned, the REO should once again review the working procedures of the ballot paper issuing desks at polling stations and require the polling staff to verify carefully whether the ballot paper to be issued belongs to the constituency concerned so as to ensure

that the issued ballot papers are correct.

(Q) The Obvious Difference between Voter Turnout and Number of Ballot Papers Actually Counted

13.151 After the close of the 2019 DC Ordinary Election, the election results of all the constituencies were uploaded onto the election website for public perusal. Thereafter, the REO received a letter from one of the candidates of the Kwai Fong Constituency (Code: S14) of Kwai Tsing District, pointing out that the voter turnout of the constituency as shown on the election website was less than the total number of votes that the three candidates of the constituency had received. As such, the candidate enquired about the reasons for the discrepancy.

13.152 According to the information provided by the REO, the count at the Buddhist Lim Kim Tian Memorial Primary School (“Lim Kim Tian Primary School”) Counting Station (Code: S1401) was completed in the early morning of the day after the polling day. A total of 8 089 ballot papers were counted, including 6 from DPSs. Among the 8 089 ballot papers, a total of 8 064 were counted towards the number of votes obtained by the three candidates who received 4 766, 2 997 and 301 votes respectively. The remaining 25 were invalid ballot papers. On the other hand, according to the statistics provided by the polling station on the polling day, the cumulative voter turnout of the Lim Kim Tian Primary School Polling Station (S1401) was 8 059, a difference of 30 from the number of counted ballot papers.

13.153 In view of the above, the EAC has immediately requested the REO to investigate into the causes of the difference. The preliminary findings are detailed

below.

13.154 The counting result reflects the number of ballot papers actually counted, while the cumulative voter turnout only reflects the number of ballot papers issued by the POs at the ballot paper issuing desks of the polling station. Although the cumulative voter turnout is all along published every hour on the polling day for the reference of the public, it may not fully reflect the number of ballot papers that have to be counted of the polling station, and further reckoning is required. The details are set out below.

13.155 All along, the cumulative voter turnout is not necessarily the same as the number of ballot papers actually counted from the ballot box. The former is calculated based on the number of ballot papers issued to electors at ballot paper issuing desks by POs, and it does not include the ballot papers issued at the PRO's desk which are endorsed with the word "TENDERED"² or issued in replacement of the "SPOILT"³ ballot papers. The "TENDERED" ballot papers will be put into the

² Tendered ballot papers: according to section 60 of the EAC (EP) (DC) Reg, if a person representing himself/herself to be a particular elector applies for a ballot paper after another person has been issued with a ballot paper on the basis that he/she is the first-mentioned person, i.e. the name and number of identify document of that person has already been crossed-out on the FR, the PRO may issue to that person a ballot paper endorsed on the front of it with the words "重複" and "TENDERED". These ballot papers will not be considered as valid at the count.

³ Spoilt ballot papers: according to section 62 of the EAC (EP) (DC) Reg, if an elector inadvertently deals with the ballot paper issued to him/her in such a manner that it cannot be properly used as a ballot paper or makes an error in marking a ballot paper, he or she may apply to the PRO for another ballot paper. If that person gives back the ballot paper already issued to him/her to the PRO and establishes to the satisfaction of the PRO the inadvertence or the fact that he/she made an error, the PRO may issue another ballot paper to that person. The PRO must immediately cancel the original ballot paper by endorsing on the front of it with the words "損壞" and "SPOILT".

ballot box and included in the number of ballot papers actually counted, while “SPOILT” ballot papers will be kept by the PRO and will not be counted. Therefore, the number of “TENDERED” ballot papers must be added to the cumulative voter turnout for verification with the number of ballot papers actually counted. Besides, not all ballot papers issued at the ballot paper issuing desks will be put into the ballot box. For instance, electors may, for various reasons, return the ballot papers to the PRO without putting them into the ballot box. Besides, polling staff may also occasionally discover ballot papers abandoned or left behind by electors inside the polling station. The PRO will endorse such ballot papers with the word “UNUSED”⁴ and keep them in his/her custody. As these ballot papers are originally issued at ballot paper issuing desks, they have already been counted towards the cumulative voter turnout. However, as these ballot papers are not inside the ballot box, they will not be counted. Therefore, the number of “UNUSED” ballot papers must be deducted from the cumulative voter turnout for arriving at the number of ballot papers that should actually be counted. After adding the number of “TENDERED” ballot papers and deducting the number of “UNUSED” ballot papers from the cumulative voter turnout, the total (to be clearly stated on the ballot paper account of each polling station) should tally with the number of ballot papers actually counted. Moreover, some ballot papers may have been taken away by the electors and consequently not put into the ballot box. As these ballot papers will not be returned or picked up, they will not be included in the number of “UNUSED” ballot papers by the PRO. In any event, the counting results

⁴ Unused ballot papers: According to section 61 of the EAC (EP) (DC) Reg, if an elector abandons or leaves an issued ballot paper (whether or not it is marked) at the polling station, or an elector refuses to vote and returns a ballot paper, the PRO must endorse the words “未用” and “UNUSED” on any ballot paper that has been issued but has not been put into the ballot box. In any event, these ballot papers shall not be put into the ballot box.

will be based on the number of ballot papers actually counted, while the cumulative voter turnout is for reference only.

13.156 According to the established procedure for issuing ballot papers, all ballot papers are issued by the POs at the ballot paper issuing desks and are counted towards the cumulative voter turnout. As for “TENDERED” ballot papers and new ballot papers issued to electors in replacement of the “SPOILT” ones, they must be handled by the PRO personally and issued at the PRO’s desk. Since these two categories of ballot papers are handled separately, they will not be reckoned towards the voter turnout. Upon reviewing the ballot paper issuing and counting records (including the P(14) Control Sheet⁵, the ballot paper account, etc.) of the polling station and verifying with the PRO and other polling staff concerned, the REO found that the PRO concerned made mistakes when handling the “SPOILT” ballot papers. After receiving 25 “SPOILT” ballot papers from the electors, the 24 replacement of which was issued by the PRO incorrectly at the ballot paper issuing desks (instead of the PRO’s desk). Besides, 19 of the “SPOILT” ballot papers received were then incorrectly endorsed with the word “TENDERED” by the PRO, and only 6 of them were correctly endorsed with the word “SPOILT”. As a result, wrong numbers were reported on the ballot paper account. It is obviously because the PRO did not familiarise himself with the operational manual.

13.157 As the PRO re-issued the ballot papers at the ballot paper issuing desk to the electors concerned upon receipt of the 24 “SPOILT” ballot papers as mentioned above, these 24 ballots were counted towards the cumulative voter turnout again,

⁵ To be completed by the PROs when handling “TENDERED”, “SPOILT” and “UNUSED” ballot papers.

resulting a double-count of 24 persons for the voter turnout. Therefore, the actual voter turnout of the polling station should be deducted by 24 from the total of 8 059 (see Table 1). In addition, as shown on the P(14) Control Sheet of the polling station, the PRO received 12 “UNUSED” ballot papers, i.e. those that were issued but not put into the ballot box. The “UNUSED” ballot papers were issued by the POs at the ballot paper issuing desks and already counted in the cumulative voter turnout. However, as these 12 “UNUSED” ballot papers were not put into the ballot box, they should be deducted in order to come up with the number of ballot papers estimated to be in the ballot box, which should be 8 023 (See Table 1). According to the information provided by the REO, the APRO (Statistics) had checked the number of ballot papers of various categories kept by the PRO, and confirmed that 25 “SPOILT” ballot papers from the electors (of which 19 incorrectly endorsed with the word “TENDERED” and 6 correctly endorsed with the word “SPOILT”) and 12 ballot papers correctly endorsed with the word “UNUSED” were kept in their respective envelopes under the custody of the PRO and they were not put into the ballot box. Based on the above information, the estimated total number of ballot papers that had to be counted at the Lim Kim Tian Primary School Counting Station (S1401) included the estimated number of ballot papers to be in the ballot box (8 023) and those from DPSs (6), concluding a total of 8 029 votes (see Table 1). However, there was still a discrepancy of 60 ballot papers compared with the number of ballot papers actually counted (8 089) (See Table 1).

Table 1: Comparison between the estimated number of ballot papers that had to be counted and the number of ballot papers actually counted after rectification

Cumulative voter turnout before rectification (a)	8 059
<i>(-) Voter turnout double-counted due to issue of ballot papers in replacement of “SPOILT” ones (b)</i>	24
Cumulative voter turnout after rectification (c) [= (a)-(b)]	8 035
<i>(-) “UNUSED” ballot papers (d)</i>	12
Estimated number of ballot papers to be in the ballot box (e) [= (c)-(d)]	8 023
<i>(+) Ballot papers from DPSs (f)</i>	6
Estimated number of ballot papers that had to be counted (g) [= (e)+(f)]	8 029
Number of ballot papers actually counted (h)	8 089
Difference [= (h)-(g)]	60

13.158 In conclusion, after the preliminary investigation by the REO, the reasons for the difference still could not be figured out. Since the incident might have involved illegal conduct, the REO had referred the case to the LEA for investigation. Moreover, the REO had also sent letters to inform the candidates of the constituency of the incident and remind them that they could question the election result by lodging an election petition under section 49 of the DCO. As far as it is known, no candidate at the counting station requested a recount.

13.159 **Recommendation:** According to the law, all ballot papers must be placed in the custody of the CEO for a minimum period of six months from the date of the election after being packed and sealed, which must then be disposed of. Unless

directed by a court order in relation to an election petition or criminal proceedings, no person shall inspect any ballot paper in the custody of the CEO. Therefore, the REO can only look for the reasons for the difference based on the ballot paper issuing and counting records of the counting station concerned, and it has no authority to unseal the packed and sealed ballot papers concerned to review the counting results. In any case, the EAC notes that the case has already been referred to the LEA for investigation.

13.160 Besides, the EAC notes that the PRO concerned did not familiarise himself with the operational manual, failed to handle the “SPOILT” ballot papers in accordance with the established procedure and had made a few mistakes, including incorrectly arranging the re-issuance of new ballot papers to electors at the ballot paper issuing desks, as well as wrongly endorsing the “SPOILT” ballot papers received with the word “TENDERED”, resulting in errors in the number of voter turnout and the figures on the ballot paper account, and therefore comparison cannot be made between the ballot paper account and the number of ballot papers actually counted. There were obvious problems with the performance of the PRO. The EAC has instructed the REO to investigate further into and clarify the relevant responsibilities of the PRO involved, and take appropriate follow-up actions as necessary. The REO must also strengthen the training for PROs in order to prevent similar incidents from happening again.

(R) Rumours and False Information About the Election

13.161 On and before the polling day, quite a number of rumours and false information about the election were circulated on the Internet and social media

platforms. In view of this, the EAC and the relevant Government departments quickly clarified the false information through different channels to avoid the electors from being misled and influenced. The rumours and false information in question are as follows:

Rumours/False Information	True Facts
<ul style="list-style-type: none"> ● The number of invalid ballot papers amounted to 1.6 million in the election. 	<ul style="list-style-type: none"> ● The number of invalid ballot papers in this election is about 17 600 (please refer to Appendices III and IV), which is much less than that mentioned in the rumours.
<ul style="list-style-type: none"> ● The voter turnout in an individual constituency is greater than the number of registered electors of the constituency. 	<ul style="list-style-type: none"> ● Untrue. If necessary, please refer to the election website (www.elections.gov.hk) for the number of electors and the counting result of each constituency.
<ul style="list-style-type: none"> ● A ballot box has been “sneaked” into a polling station of a constituency. 	<ul style="list-style-type: none"> ● According to the law, there are four types of polling stations, namely: <ol style="list-style-type: none"> 1. ordinary polling stations (for casting of votes by general electors); 2. DPSs (set up at penal institutions or other suitable places at which registered electors who are imprisoned or held in custody by LEAs on the polling day to cast their votes); 3. special polling stations (for electors with mobility difficulties assigned to vote at an original polling station which is not accessible by wheelchair to vote at another polling station); and 4. small polling stations (polling stations with less than 200 electors assigned to vote in it).

Rumours/False Information	True Facts
	<ul style="list-style-type: none"> ● Apart from the ordinary polling stations in the respective constituencies which will be converted for the counting of votes after the completion of poll, counting of votes will not be conducted in the other three types of polling stations after the close of poll because the numbers of ballot papers cast at these stations are small, and to preserve the secrecy of votes, the ballot papers cast at these polling stations will be delivered to the respective MCSs for mixing with the ballot papers cast therein before counting. ● For DPSs, there is only one ballot box in each of them for casting of votes by electors from different constituencies. Therefore, sorting of the ballot papers has to be conducted beforehand. In the BPSS, the polling staff will open the ballot box and put the ballot papers of the same constituency into a container (for example a brief case) for delivery together with other electoral documents to the respective MCS for counting. ● As for special polling stations, if electors with mobility difficulties are allocated to vote at a special polling station which is not in their respective constituency, they shall cast their votes in a green ballot box provided specifically therein to avoid confusion. After the close of the poll, the green ballot box will be returned to the MCS of the respective constituency, and the ballot papers therein will be mixed with those cast at the MCS before counting. ● The above-mentioned arrangements of not

Rumours/False Information	True Facts
	<p>counting votes in certain types of polling stations but delivering the ballot boxes to ordinary polling stations for counting are required by the law and mandatory.</p> <p>(Please also see paragraphs 13.59 and 13.75 above.)</p>
<ul style="list-style-type: none"> ● There are “facial recognition systems” installed in polling stations. 	<ul style="list-style-type: none"> ● The ballot is secret. There is no facial recognition system installed in any polling station, and the poll of electors is not filmed.
<ul style="list-style-type: none"> ● The REO would calculate election results based on the votes cast during the first three hours on the polling day if the polling station became inoperable three hours after the poll began. 	<ul style="list-style-type: none"> ● The polling hours for the ordinary polling stations are from 7.30 am to 10.30 pm, 15 hours in total. ● If a polling station stops operating due to unexpected incidents and the poll of the polling station has to be adjourned or postponed to the reserved polling day, the total polling hours must remain 15. ● Counting of votes will not be conducted before the poll of the constituency as a whole is completed.

Rumours/False Information	True Facts
<ul style="list-style-type: none"> ● Impersonators applying for ballot papers in the name of another person with a “memo of lost property” (a document evidencing a report to a police officer of the loss or destruction of the person's identity document). 	<ul style="list-style-type: none"> ● According to the laws, an elector must produce the original of his/her HKID or specified document(s), such as a HKSAR Passport, in order to obtain a ballot paper. These identity documents all show the holder's name, HKID number and photograph. ● If an elector has lost his/her HKID before the poll and does not possess an HKSAR Passport, the elector may bring the “memo of lost property” issued by the police station together with other valid passport or similar travel documents to vote. The above documents, namely the “memo of lost property” and travel documents, bear the name, HKID number and photograph of the elector. This allows polling staff to ascertain that the holder of the “memo of lost property” is the elector he/she claims to be and thus can be issued with a ballot paper. ● Therefore, it is not true that just by producing the “memo of lost property”, a person can be issued with a ballot paper.
<ul style="list-style-type: none"> ● Polling staff issuing ballot papers would deliberately spoil the ballot papers by tearing a corner off. 	<ul style="list-style-type: none"> ● For every ballot paper, there is an angled cut at the upper left corner on its front. This is to facilitate electors with visual impairments to insert their ballot papers into braille ballot paper templates correctly so that they can mark the ballot papers by themselves.

Rumours/False Information	True Facts
<ul style="list-style-type: none"> ● There were calls online urging people to take away the identity cards of elderly electors before the polling day to stop them from voting. 	<ul style="list-style-type: none"> ● According to the ECICO, a person commits a crime if he/she uses force, duress, deception or other means to obstruct an elector from voting, which is liable to a maximum penalty of imprisonment for seven years and a fine of \$500,000.

13.162 **Recommendation:** The EAC is of the view that elections pertain to the general public and that any irresponsible act with the intent to compromise an election should not be tolerated. For complaints which involve criminal liability, the EAC has referred them to LEAs for follow-up according to the established procedures. The EAC urges relevant Government departments to step up preventive and law enforcement vigour in future public elections to curb such irresponsible acts.

13.163 On the other hand, the REO also appeals to the public to discern fact from fiction and not to misbelieve rumours, or to refrain from spreading rumours. Besides, the REO should also enhance publicity and public education on the voting and counting arrangements, including producing audio-visual materials and uploading them online for reference by members of the public, so as to enhance their awareness and understanding.

PART SIX

CONCLUSION

CHAPTER 14

ACKNOWLEDGEMENT

14.1 The smooth completion of the 2019 DC Ordinary Election was attributable to the dedication and concerted efforts of all parties involved.

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

Agriculture, Fisheries and Conservation Department

Auxiliary Medical Service

Civil Aid Service

Correctional Services Department

Customs and Excise Department

Constitutional and Mainland Affairs Bureau

Department of Justice

Drainage Services Department

Efficiency Office of the Innovation and Technology Bureau

Electrical and Mechanical Services Department

Fire Services Department

Food and Environmental Hygiene Department

Government Flying Service

Government Logistics Department

Highways Department

Home Affairs Bureau

Home Affairs Department

Hong Kong Observatory

Hong Kong Police Force

Hongkong Post

Hong Kong Housing Authority

Housing Department

Immigration Department

Independent Commission Against Corruption

Information Services Department

Land Registry

Lands Department

Legal Aid Department

Leisure and Cultural Services Department

Marine Department

Office of the Government Chief Information Officer of the Innovation
and Technology Bureau

Official Languages Division of the Civil Service Bureau

Official Receiver's Office

Planning Department

Radio Television Hong Kong

Security Bureau

Social Welfare Department

Transport Department

14.3 The EAC is grateful to the REO for its dedicated efforts and contribution at all stages throughout the 2019 DC Ordinary Election.

14.4 The EAC is deeply thankful to the government officers serving as ROs, AROs, PROs, DPROs, APROs and polling and counting staff, and the legal practitioners serving on the NACs, for their contributions to this election.

14.5 The EAC would also like to express its appreciation to CSD, Police and other LEAs for their assistance to the REO in making the necessary arrangements for registered electors who were imprisoned, remanded and detained on the polling day to vote.

14.6 Moreover, the EAC is also grateful to members of the media for enhancing the transparency of the election through their extensive coverage.

14.7 Last but not the least, the EAC would like to thank each and every elector who turned out to cast their votes, and those who provided support and assistance throughout the election to ensure that the electoral legislation and the Guidelines were complied with.

CHAPTER 15

LOOKING FORWARD

15.1 In the 2019 DC Ordinary Election, both the number of registered electors and the voter turnout reached record highs, and a total of 452 elected members were returned. The election has faced unprecedented challenges. During the preparation, there were incidents that had lasted for months undermining the public order and peace of Hong Kong. Among the 400-plus constituencies, none was uncontested and the competition was the most fierce ever. During the course of election, there were a number of unlawful and irresponsible behaviours and statements, such as personal assaults on persons including the candidates, damage to properties, display of political slogans or intimidating messages on “Lennon Walls”, rumours and false information circulated on the Internet, etc. In this connection, the EAC had repeatedly called upon the public to cherish the fine election culture of Hong Kong so that the election could be conducted in a peaceful and safe environment. The EAC and the relevant Government departments also quickly dispelled the false information through different channels to avoid the electors from being misled and influenced. The EAC considers that with the efforts of the REO and the support of the Government bureaux and departments concerned, the poll and the count of this election was on the whole completed peaceful and orderly in an open, honest and fair manner. The processes were also monitored by candidates, the media and the public.

15.2 At the time of finalising this report, the EAC is engaged in preparing the proposed guidelines on election-related activities for the 2020 LegCo General

Election for public consultation.

15.3 The EAC remains committed to fulfilling its mission of safeguarding the integrity of the public elections in Hong Kong. It will continue with its efforts in keeping a vigilant watch over various elections to ensure that openness, fairness and honesty are upheld in the conduct of every election. The EAC welcomes positive and constructive comments to bring about improvements to future elections.

15.4 The EAC recommends that this report be made public, at a time the CE thinks appropriate, so that the public will be kept posted as to how the EAC conducted and supervised the 2019 DC Ordinary Election.

