

To: Chief Electoral Officer

(Email address: cmls@reo.gov.hk) / (Fax No.: 2554 7065) /

(Postal address: 8/F, Millennium City 6, 392 Kwun Tong Road, Kwun Tong, Kowloon)

Undertaking on the Use of Electors' Information
2022 Legislative Council Election Committee Constituency By-election

Date of By-election: 18 December 2022

I hereby undertake:

- (1) to use the information in the "Candidate Mailing Label System" and the mailing labels of registered electors solely for the purpose related to the electioneering activities for the 2022 Legislative Council Election Committee Constituency By-election;
- (2) when sending out election mail to electors by email, to address each elector by an individual email, to enter the email addresses of electors into the "bcc" column or use other proven means to send out the emails in such a way that each recipient will not be able to view the email addresses of other electors;
- (3) to make every endeavour to prevent any disclosure of electors' personal data including email addresses to unauthorized persons and, in the event of inadvertent disclosure of electors' personal data, to prevent any misuse of the relevant information by third parties, including but not limited to informing the third parties that they are in possession of electors' personal data obtained for the purpose of compiling a register of electors and requiring them to delete the relevant information immediately;
- (4) to duly destroy the "Candidate Mailing Label System" in the USB flash drives, all unused mailing labels and electors' personal data copied from the aforesaid system (if any) **within 2 weeks** after the 2022 Legislative Council Election Committee Constituency By-election, **AND** return the duly completed reply slip on the confirmation of the proper destruction of the above materials/information to the Registration and Electoral Office ("REO") **on or before 3 January 2023**; and
- (5) if I fail to return the relevant reply slip on the confirmation of destruction of the above materials/information to the REO within 2 weeks after the election, the aforementioned materials/information should be regarded as lost. Since the electors' information contained in the relevant materials/information will be exposed to the risk of unauthorized or accidental access, processing, erasure, loss or use, I shall follow the recommendation of the "Guidance on Data Breach Handling and the Giving of Breach Notifications" which was issued by Office of the Privacy Commissioner for Personal Data, Hong Kong ("PCPD") to report the incident to the PCPD and the relevant law enforcement agencies (e.g. the Hong Kong Police Force) so as to protect the personal data privacy and the interests of the data subjects concerned.

I understand that:

- (1) it is an offence for any person to reproduce or permit another person to reproduce in any form, use or permit another person to use, or impart to any other person, the electors' information in the above "Candidate Mailing Label System" USB flash drives and/or mailing labels for any purposes other than the purpose related to the 2022 Legislative Council Election Committee Constituency By-election. Any person who commits the said offence is liable to a fine of HK\$5,000 and to imprisonment for 6 months[#];
- (2) according to section 64 of Personal Data (Privacy) Ordinance (Cap. 486), a person commits an offence if the person discloses any personal data of a data subject which was obtained from a data user without the data user's consent, with an intent (a) to obtain gain in money or other property, whether for the benefit of the person or another person; or (b) to cause loss in money or other property to the data subject. Such person is liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years;
- (3) the Electoral Affairs Commission and the Government of the Hong Kong Special Administrative Region (including the REO) ("the Government") shall not be responsible for any disclosure, intentional or inadvertent, of electors' personal data to unauthorized persons, or for any use of electors' personal data for non-electioneering activities by the candidate(s). The candidate(s) shall be fully responsible for any disclosure of electors' personal data to unauthorized persons or any use of electors' personal data for non-electioneering activities, and shall indemnify and keep indemnified the Electoral Affairs Commission and the Government against all legal liabilities, costs, expenses, legal actions, legal proceedings, claims, demands, losses and damages arising out of or in connection with such disclosure or use; and
- (4) if I fail to return the relevant reply slip on the confirmation of destruction of the above materials/information to the REO within 2 weeks after the election, the REO will regard the aforementioned materials/information as lost and report the incident to the PCPD and/or the relevant law enforcement agencies (e.g. the Hong Kong Police Force).

I have read, understood and agreed to the "Important Notes" overleaf.

Signature of *Candidate/Election Agent : _____

Name of *Candidate/ Election Agent (BLOCK LETTERS) : _____

Category of Constituency : _____

Election Committee Constituency

Date : _____

* Please delete as appropriate.

See sections 21(3) and 22(3) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) and sections 41(3) and 42(3) of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B).

Important Notes

Candidates must adopt the following measures when they handle electors' personal data in all forms (including but not limited to personal data contained in printed materials) :

- (1) ensure that the computer(s)/server(s) in which electors' personal data are processed/stored is/are protected by security devices to prevent unauthorized access/retrieval;
- (2) **ensure proper erasure and destruction of all the electors' personal data (regardless of their form), and return the duly completed "Reply Slip on Confirmation of Destruction of "Candidate Mailing Label System" in the USB flash drives and the Relevant Electors' Information" to the Registration and Electoral Office ("REO") within two weeks after this election;**
- (3) if you have exported the information from the system for processing, you must also delete the information within two weeks after this election and ensure that the deleted data file cannot be recovered in the future;
- (4) keep a written record of the provision, retrieval and destruction of electors' personal data; and
- (5) report to the REO, Office of the Privacy Commissioner for Personal Data, Hong Kong and the relevant law enforcement agencies (e.g. the Hong Kong Police Force) immediately in the event of any suspected leakage of electors' personal data.

Candidates who engage election agent or other election personnel to handle electors' personal data must also:

- (6) ensure that the election agent or relevant election personnel possess adequate knowledge and appropriate awareness to handle work of information security;
- (7) explicitly require the election agent or relevant election personnel to follow Data Protection Principle 3¹ of the Personal Data (Privacy) Ordinance (Cap. 486)("PDPO") and inform them that the electors' personal data should only be used for purposes specified by the candidate in relation to this election and that the measures as outlined in items (1) - (5) above must be adopted;
- (8) inform the election agent or relevant election personnel in writing in relation to their responsibilities in protecting the personal data of electors and ensure that they understand the requirements of Data Protection Principle 4¹ of the PDPO; and
- (9) obtain written undertakings from the election agent or relevant election personnel that they should act in compliance with Data Protection Principle 3¹ of the PDPO and follow the security requirement imposed by the candidate, and take appropriate measures to ensure compliance by them with the relevant security requirements.

To: Chief Electoral Officer

Acknowledgement of Receipt

I acknowledge receipt of the following item(s) from the Registration and Electoral Office:

1. * "Candidate Mailing Label System" USB flash drives and its User Guide;
2. * A set of mailing labels of registered electors as specified in the Notice for Collection of Electors' Information submitted by the Candidate/the Election Agent on _____ (Date) (excluding electors who have provided their email addresses (except those in custody of the Correctional Services Department), and those who have requested not to receive election mail).

I have inspected the seal(s) on the package(s) and found it/them intact.

Signature of Candidate/Election Agent* : _____

Name of Candidate/ Election Agent* (BLOCK LETTERS) : _____

Category of Constituency : Election Committee Constituency

Date : _____

* Please delete as appropriate.

¹ Please refer to "Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public" issued by the Office of the Privacy Commissioner for Personal Data, Hong Kong in June 2020.