

CHAPTER 10

ELECTIONEERING ACTIVITIES IN PREMISES OR BUILDINGS WHERE ELECTORS RESIDE, WORK, OR FREQUENT

PART I : GENERAL

10.1 This chapter aims to provide general guidelines to be observed by candidates when conducting electioneering activities:

- (a) at electors' living or working places;
- (b) in the premises of the organisation(s) to which the elector(s) belong; or
- (c) in the building(s) which the elector(s) visit(s) frequently.

Electioneering activities may include visiting the above mentioned places, contacting electors, using sound amplifying devices to advertise in the common parts of buildings, displaying or distributing EAs, and holding election meetings. **Management organisations of buildings are responsible for adhering to the principle of fair and equal treatment, ensuring no candidate receives unfair treatment in an election. Chairmen or executive committee members of such organisations must not abuse their positions to provide unfair**

treatment to any candidate in conducting electioneering activities within the premises.

10.2 To ensure the smooth conduct of electioneering activities in public or private places, candidates should consult the relevant government departments/ authorities, or management organisations in advance and obtain their prior permission for conducting electioneering activities within their jurisdiction.

PART II : GUIDELINES TO BE OBSERVED BY CANDIDATES

10.3 Candidates should note that electors have the right to allow or deny anyone access to their own living or working places for electioneering purposes. When entering private offices, government offices, or buildings where electors' organisations are located, candidates may require approval from the management organisations of the office building or premises, which have the authority to allow or deny any person for conducting electioneering activities in such places.

10.4 Due to security reasons, arrangements will not be made for candidates to conduct in-person canvassing activities in penal institutions or the premises of law enforcement agencies. A visitor, who visits a penal institution or the premises of law enforcement agency for a business or official purpose, is not allowed to canvass for votes during the visits, to avoid an unfair advantage over other candidates. It is an offence for any person who canvasses for votes during the aforesaid visit. [S 90A of the EAC (EP) (LC) Reg]

10.5 Candidates and their supporters should respect and comply with the decisions made by management organisations regarding electioneering activities and should not take advantage of or accept any unfair advantages over other candidates. If dissatisfied with a management organisation's decision or act, candidates may lodge a complaint to the EAC, which will determine whether the decision or act is fair or not.

10.6 Unless explicitly permitted by the building management organisation, candidates and their supporters must not use **the entrance intercom system** for canvassing.

Identification of Canvassers

10.7 For security reasons, the EAC advises candidates to provide their electioneering team with authenticated identification document bearing the name of the campaign team/candidate, the canvasser's name and his photo, so that they can produce it together with his HKID for inspection when entering into buildings for electioneering purposes. Candidates should note that the production costs of this kind of identification document will be counted as election expenses.

**PART III : GUIDELINES TO BE OBSERVED BY OWNERS,
MANAGEMENT ORGANISATIONS, AND
ORGANISATIONS**

Rights of Tenants and Owners

10.8 It is the exclusive occupier of private property (houses, flats, shops, offices, or factories), that means the tenant or occupier who has the exclusive right of occupancy, and not the owner, who has the right to decide whether to allow individual candidates to display EAs or conduct electioneering activities in their premises.

10.9 Candidates and tenants should note that, as a **tenant** has exclusive possession of the unit that he occupies, he has **the right to invite anyone to visit his unit for any lawful purposes**, including electioneering activities. However, he has no right to allow invitees to approach other tenants' units, such as knocking on other people's doors, or conduct any activities in the common parts of the building.

10.10 **A tenant's right to invite lawful visitors (including candidate(s)/his supporters) to his flat, shop, office, or factory cannot be lawfully restricted by any decision made by the owners or owners' corporation or management organisations.**

Decisions of Management Organisations for Common Parts of Buildings

10.11 Management organisations responsible for the **common parts** of buildings, when processing applications for displaying EAs or conducting electioneering activities in these spaces, must adhere to **the principle of fair and equal treatment** for all candidates, with attention to the following:

- (a) **equal opportunity** should be provided to all candidates contesting in the same constituency to conduct electioneering activities;
- (b) if any common parts of a building are available for candidates to display EAs or conduct electioneering activities, the building management organisations should ensure all candidates contesting in the same constituency are given **equal opportunity** to use these spaces, and should establish rules for applying to use them, and give reasonable notice to all candidates;
- (c) as motions on whether candidates' electioneering activities should be allowed involve tenants' and occupiers' rights, building management organisations, when processing such applications, should invite all tenants and occupiers (including non-owner occupiers) to express their views, or decide on the motions by secret ballot. They may also consider conducting a questionnaire survey to collect views of tenants and occupiers and make decisions according to the majority view;

- (d) when deciding on candidates' applications for electioneering activities, the access hours and other conditions to be observed by candidates, such as not causing nuisance to occupiers and the maximum number of persons allowed for home visits could also be set out (see **Appendix 9**); and
- (e) consideration may be given to formulating rules applicable to all candidates for processing such applications.

Notification of Decisions

10.12 After deciding on candidates' electioneering activities, building management organisations should notify the relevant RO in writing as soon as possible, enabling the RO to provide accurate information to candidates or the public upon receiving inquiries. A **form** of the notification to the RO can be obtained from the REO or downloaded from the REO's website. At the same time, building management organisations should also post a notice detailing the decision and any conditions at the building's entrance. If necessary, candidates may inquire with the RO for the district where the building is located. However, if some building management organisations fail to notify the RO because they are unable to make a decision on candidates' electioneering activities, candidates should take that as electioneering activities are disallowed.

**PART IV : CONDUCT OF ELECTIONEERING ACTIVITIES IN
ESTATES MANAGED BY THE HOUSING
DEPARTMENT, HONG KONG HOUSING SOCIETY,
AND LIGHT PUBLIC HOUSING BY THE HOUSING
BUREAU**

10.13 Specific guidelines for candidates in conducting electioneering activities in estates managed by the Housing Department, the Hong Kong Housing Society, and Light Public Housing by the Housing Bureau are set out in **Appendix 10**.

**PART V : PROTECTION OF ELECTORS' PERSONAL DATA
PRIVACY**

10.14 **Candidates and their election agents must strictly comply with the requirements of the PD(P)O when conducting electioneering activities.** The Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations, and Members of the Public, prepared by the Office of the Privacy Commissioner for Personal Data (“PCPD”), is provided at **Appendix 11** as a general reference on compliance with the requirements of the PD(P)O regarding the collection, retention, processing, and use of personal data during electioneering activities.

10.15 When conducting electioneering activities, candidates should take all practicable steps to prevent electors’ personal data from being accessed

accidentally or without authorisation. The EAC particularly reminds candidates to use the “bcc” function or other proven means when sending mass election mails by email, to ensure individual electors’ email addresses are not disclosed to other recipients.

10.16 To avoid emails containing election mails being misdetected as spam and blocked, candidates may consider checking with the relevant email service providers about restrictions on sending mass emails before distributing election mails by emails in bulk.

NOTE :

Personal data relating to individuals contained in any FR of electors or its extracts **can only be used for election-related purposes** under electoral legislation. Any **abuse** or **misuse** of such data is an **offence**. [S 22(3) of the EAC (ROE) (GC) Reg and s 42(3) of the EAC (ROE) (FCSEC) Reg]

Under Data Protection Principle 3 of Schedule 1 to the PD(P)O, personal data of an individual (as a data subject) contained in any FR of electors or its extracts shall not, without the individual’s prescribed consent⁵⁰ or an exemption under Part 8 of the PD(P)O, be used for a “new purpose”⁵¹. For example, the REO had received post-election

⁵⁰ “Prescribed consent” means the express consent given voluntarily, and not withdrawn in writing, by the data subject. [S 2(3) of the PD(P)O]

⁵¹ “New purpose” in relation to the use of personal data, means any purpose other than the purpose for which the data was to be used at the time of the collection of the data or a purpose directly related to that purpose. [Data Protection Principle 3(4) of Schedule 1 to the PD(P)O]

complaints from electors who suspected that some candidates had continued to use the email addresses provided by the REO to send emails containing their work reports to the complainant after the election. Since electors' information provided by the REO (including electors' email addresses) can only be used for electioneering purposes related to the relevant election and the candidates under complaint were suspected to use the electors' information provided to them by the REO for a "new purpose", the REO referred these cases to law enforcement agencies for further investigation.

Moreover, if a person (as a discloser) discloses personal data of an individual (as a data subject) contained in any FR of electors or its extracts without relevant consent of the data subject with an intent to cause specified harm or being reckless as to whether specified harm⁵² would be (or would likely be) caused to the data subject or his family member, the discloser commits an offence. If the disclosure causes specified harm to the data subject or his family member, the discloser will be liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years.

[S 64(3A), (3B), (3C) and (3D) of the PD(P)O]

⁵² "Specified harm" in relation to a person, means (a) harassment, molestation, pestering, threat, or intimidation to the person; (b) bodily harm or psychological harm to the person; (c) harm causing the person reasonably to be concerned for his safety or well-being; or (d) damage to the person's property. [S 64(6) of the PD(P)O]

PART VI : SANCTION

10.17 If the EAC receives a complaint of **unfair or unequal treatment** of candidates by any organisation, building, or person acting or purporting to act on behalf of such organisation or building, and is satisfied that the complaint is justified, it may make a **reprimand** or **censure** in a public statement, and publish the names of the candidates favorably and unfavorably treated. Candidates should therefore pass on the relevant information in these guidelines to the relevant persons when they come into contact with management organisations or building owners. However, if it is proved that a complainant has made a false, unfounded, or unreasonable allegations of unfair treatment, the EAC may issue a **reprimand** or **censure** in a public statement against the complainant.

10.18 Candidates must not accept unfair advantages offered by management organisations. The EAC may issue a public **reprimand** or **censure** against the candidate who contravenes the guidelines in this chapter or whose act or behaviour results in unfair or unequal treatment to other candidates.