

## **CHAPTER 14**

### **EXIT POLL**

#### **PART I : GENERAL**

14.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls on the polling day. The EAC respects academic freedom and freedom of expression in conducting exit polls. However, the EAC also strives to conduct public elections under the principles of openness, fairness and honesty to avoid the electors being unduly influenced and interfered with, and to maintain the order outside the polling stations. As such, a fair balance between the two ends must be maintained.

14.2 Secrecy of the vote is an important principle under the electoral system. It is entirely voluntary for electors to participate in any exit polls and they are not required to disclose to the persons or organisations conducting the exit polls their voting preference unless they wish to do so.

14.3 Voting polls inside a polling station or an NSZ are strictly prohibited by virtue of the secrecy requirement under the law. However, exit polls may be conducted within the NCZ outside the exit of the polling station if approval from the HAD has been obtained [s 82(1)(e) of the EP (RRE) Reg].

14.4 It is strictly forbidden for exit polls approved by the HAD to be used for electioneering purposes in promoting or prejudicing the election of a candidate or candidates. Persons or organisations conducting exit polls must not be affiliated with the candidates. The persons or organisations must ensure that the results of exit polls will not be disclosed to any candidate or other persons before the close of poll. The interviewers should make clear to the electors that participation in the exit polls is entirely voluntary.

14.5 To strictly regulate the exit polls, all applicants for the conduct of exit polls are required to make a statutory declaration to abide by the terms and guidelines governing the conduct of exit polls (see para. 14.12 below). The approval may be revoked if the terms and guidelines are contravened. If the person or organisation concerned deliberately makes false statutory declaration, they will be in breach of s 36 of the Crimes Ordinance and be sentenced to imprisonment for 2 years and to a fine.

14.6 Except for exit polls conducted within the NCZ on the polling day mentioned in para. 14.3 above, election-related opinion polls conducted outside the NCZ or before the polling day are not regulated by the subsisting legislation. These polls do not fall within the scope of exit polls regulated by the EAC.

14.7 **The EAC appeals to the media to act with self-discipline, goodwill and in a spirit of voluntary cooperation in publishing and broadcasting the results of exit polls and other election-related opinion polls by refraining from announcing the said results before the close of poll so that electors' voting behaviour will not be unduly affected.**

## **PART II : SECRECY OF THE VOTE**

14.8 **The ballot is secret.** It is an elector's right to keep his/her vote secret. An elector does not have to disclose his/her choice of candidate if he/she does not want to. **It is a criminal offence for a person, without lawful authority, to require, or purport to require, an elector to disclose the name of, or any particular relating to, the candidate for whom the elector has voted at an election** [s 38 of the RREO and s 82 of the EP (RRE) Reg]. **Those who conduct exit polls must respect the electors' right and wish not to be disturbed.** The interviewers should inform the electors being interviewed that their participation in the exit polls is voluntary prior to the

conduct of exit polls.

14.9 Any announcement or disclosure of results of exit polls or predictions, particularly in relation to any individual candidate, during the polling hours may affect electors' voting preference and have an impact on election results. **The EAC, therefore, reminds the media and persons/organisations concerned that they should not announce the results of exit polls or make specific remarks or predictions on the performance of individual candidates before the close of poll. Furthermore, interviewers of approved exit polls should not speak to or communicate with candidates or their agents when conducting the poll outside polling stations.**

### **PART III : CONDUCT OF EXIT POLLS**

14.10 Any person or organisation may apply for conducting exit polls in respect of any Rural Area to the HAD, which handles such applications on behalf of the EAC. Individual applicants must reach the age of 18 as all applications by persons or organisations must be accompanied by a statutory declaration (see para. 14.12 below) to abide by the relevant terms and guidelines governing the conduct of exit polls which, in case of breaches, carry serious consequences and possible criminal liability for offenders. To forestall public perception of unfairness and to maintain order at the polling station, approval would normally not be granted in one or more of the following circumstances:

- (a) the applicant has publicly expressed support for any candidate(s) running in the Rural Area covered by the exit poll(s);
- (b) the applicant organisation has member(s) running in the Rural Area covered by the exit poll(s);

- (c) the person(s) responsible for the exit polls or interviewers deployed for the polls are currently members of the organisation(s) to which any of the candidates running in the Rural Area covered by the exit polls belong, or which have publicly expressed support for any candidate(s) running in the Rural Area covered by the exit polls;
- (d) the applicant organisation, the person(s) responsible for the exit poll, or the conduct of the proposed exit polls may cause embarrassment to the EAC given its role;
- (e) the proposed exit polls may cause disturbance or disorder at the polling station, compromise public perception of the credibility of the election, or lead to any public order or public health concerns, etc.

Application will be considered on a case-by-case basis and there are no exhaustive lists of considerations. The background of the applicant including his/her/its affiliation and whether the applicant/proposed exit poll would have association with any person/matter which may discredit or be perceived as discrediting the role of EAC and the credibility of the election would normally be taken into consideration.

14.11 For security reasons, no exit polls may be conducted for dedicated polling stations. For the purpose of better control of the conduct of exit polls, persons or organisations intending to conduct exit polls must provide the following to the HAD at the **latest 10 days before the polling day(s)**:

- (a) the name and address of the person or organisation intending to conduct an exit poll on the polling day(s);
- (b) the identity document number and name of the person responsible

for the exit poll together with his/her telephone number(s) for contact, especially during the polling hours; and

- (c) a list showing the number of persons who will be deployed for the conduct of the exit poll at each polling station on the polling day(s) together with the identity document number and name of each of all the persons who will be so deployed.

14.12 A person or an organisation applying for the conduct of exit polls must make a statutory declaration by virtue of the Oaths and Declarations Ordinance (Cap. 11) to abide by the relevant terms and guidelines governing the conduct of exit polls. Upon receipt of the application, the HAD will consider the application and issue approval to the person or organisation concerned as appropriate. If a person or an organisation fails to comply with the terms stipulated in the approval letter and the guidelines set out in this chapter, the approval to conduct exit polls on the polling day(s) or during the polling hours may be revoked. The EAC may also make a reprimand or censure in a public statement which will include the name of the person or organisation who/which fails to comply with the terms stipulated in the approval letter and the guidelines. A notice showing the persons or organisations allowed to conduct exit polls and their contact telephone numbers will be released to the public prior to the polling day(s) for the reference of the public and candidates. Such a notice will also be displayed at the respective polling stations.

**IMPORTANT :**

Persons or organisations applying for the conduct of exit polls are not allowed to collect or retain any personal data relating to the identity of the electors (i.e. any data relating directly or indirectly to the electors, from which it is practicable for their identities to be directly or indirectly ascertained, such as names, HKID

numbers, telephone numbers and addresses).

14.13 Exit polls are not allowed inside polling stations and the NSZ. Interviewers should note that canvassing activity is prohibited within the NCZ and is subject to criminal sanction, with the exception of door-to-door canvassing activities (in both residential premises and commercial premises such as restaurants or shops) on any storey above or below street level (i.e. not including the storey at the street level) in buildings other than the one in which a polling station is located, provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not caused to electors and no sound amplifying device is used. Interviewers must therefore be extremely careful in conducting exit polls so as not to give rise to any suspicion that they are canvassing electors inside the NCZ. Interviewers, like any other person, are not allowed to stay or loiter in any area designated as an NSZ (within the NCZ but immediately outside the entrance/exit to each polling station). [S 35 of the EP (RRE) Reg] Interviewers are also not allowed to accost electors in the NSZ. All these measures are for the purpose of securing safe and smooth passage of electors into and out of polling stations.

14.14 The PRO of a polling station may, if circumstances require, designate an area **outside the exit of the polling station** for interviewers to conduct exit polls therein. As the entrance and exit of some polling stations are at the same location, interviewers conducting exit polls should keep a reasonable distance from the exit and ensure that electors entering the polling station will not be affected when the said exit polls are being conducted.

#### **PART IV : IDENTIFICATION OF INTERVIEWERS**

14.15 There had been occasions where exit poll interviewers were mistaken for government officials or polling staff. Interviewers are therefore required to display prominently an identification device showing the identity of

the person or organisation conducting an exit poll so that electors will not be misled into thinking that they are appointed by the Government. In addition, the interviewers are required to make known to the electors that any response is entirely voluntary. Arrangements should be made for electors to be aware of the name of the person or organisation conducting the exit poll at the start of the interview and the fact that the exit poll is not commissioned by the Government.

14.16 After receipt of the information referred to in para. 14.11 above, the HAD will notify the person or organisation concerned to collect a number of identification devices bearing the name of the person or organisation that is required to be displayed prominently by each of the persons included in the list in para. 14.11(c) above when conducting an exit poll. Any person not displaying prominently such a device will not be allowed to conduct an exit poll outside any polling station.

## **PART V : EXIT POLLS AND OTHER OPINION POLLS FOR ELECTIONEERING**

14.17 As mentioned in para. 14.4, exit polls approved by the HAD are not allowed to be used for electioneering purposes in all circumstances.

14.18 If a candidate makes use of the results of other opinion polls for the purpose of promoting himself/herself or prejudicing the election of other candidate(s), the expenses incurred for conducting the polls will be regarded as his/her election expenses.

14.19 If persons other than candidates or the authorised election expense agents make use of the results of the exit polls or other opinion polls for the purpose of promoting or prejudicing the election of any candidate, they will commit the relevant offence of incurring election expenses without being

authorised as an election expense agent.

## **PART VI : SANCTION**

14.20            Apart from the criminal sanction provided in the RREO, if the EAC comes to know that any broadcaster or organisation has failed to heed or comply with the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which will include the name of the broadcaster or the organisation concerned.