CHAPTER 8

ELECTIONEERING ACTIVITIES IN BUILDINGS WHERE ELECTORS RESIDE, WORK OR FREQUENT

PART I : GENERAL

8.1 This chapter aims to illustrate general guidelines to be observed by candidates when conducting electioneering activities in the following places:

(a) the residing/working places of the electors;

(b) the buildings where the organisations of the electors are located; or

(c) the buildings which the electors frequent.

Electioneering activities may include conducting visits, contacting electors, and using sound amplifying devices to advertise in the common parts of the buildings, displaying or distributing EAs and holding election meetings at the above-mentioned places. **Building management organisations are responsible for observing the principles 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 or canvassing activities within the buildings concerned.**

8.2 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 may only conduct the electioneering activities in the places within their jurisdictions after obtaining their approval.

PART II : GUIDELINES TO BE OBSERVED BY CANDIDATES

8.3 Candidates should note that electors have the right to allow or refuse visits by anyone to places where they reside or work for conducting electioneering activities. When accessing private offices, government offices, or buildings where the organisations of the electors are located, candidates may also be required to obtain approval from the management organisations of the relevant office buildings or buildings, which have the authority to allow or refuse any person to conduct electioneering activities in such places.

8.4 For security reasons, arrangements will not be made for a candidate to conduct in-person electioneering activities in a penal institution and the premises of a law enforcement agency. A person, who visits a penal institution or the premises of a law enforcement agency for a business or official purpose, is not allowed to canvass for votes thereby, to avoid causing unfairness to other candidates. It is an offence for any person who canvasses for votes during the visit for the above-mentioned purpose. [S 79A of the EP (RRE) Reg]

8.5 A candidate and his supporters should respect and comply with the decision made by the relevant management organisation regarding electioneering activities and should not take advantage of or accept any unfair advantages over other candidates. If a candidate is dissatisfied with the relevant management organisation's decision or act, he may lodge a complaint to the EAC, who will determine whether the decision or act is fair or not.

8.6 Unless it is expressly agreed by the building management organisations, candidates and their supporters cannot use **the entrance intercom system** in a building to canvass for votes.

8.7 Before the commencement of the electioneering activities, candidates should inform the relevant building management office and at all times comply

with the instructions of the venue manager during the activity, so as to ensure the safety of the people present. At the same time, in order to avoid conflicts, candidates and their teams should avoid publicity activities involving high volume or bright lights as far as possible, so as to avoid disturbing the owners, tenants and occupants of the premises.

Identification of Canvassers

8.8 For security reasons, the EAC suggests that a candidate may consider providing his electioneering team with an identification document bearing the name of the electioneering team/name of the candidate, the name and photo of the electioneering staff, so that he can produce the identification document together with his HKID for inspection when entering a building for electioneering activities. Candidates should note that the production costs of this kind of identification documents shall be counted as election expenses.

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

Rights of Tenants and Owners

8.9 It is the exclusive occupier of a private property (houses, flats, shops, offices, or factories), which means the tenant or user who has the exclusive right of occupancy, but not the owner who has the right to decide whether to allow individual candidates to display EAs or conduct electioneering activities in his property.

8.10 Candidates and tenants should note that, as a **tenant** has the exclusive right of occupancy of the flat that he resides, he has **the right to invite anyone to visit his flat for lawful purposes**, including conducting electioneering

activities. However, he has no right to allow his invitees to approach other tenants, such as knocking on the doors of other flats or conducting any activities in the common parts of the building.

8.11 **Any decision made by the owner(s) or owners' corporations or building management companies is not legally-binding, it cannot restrict a tenant's right to invite lawful visitors (including candidates and/or their supporters) to his flat, shop, office, or factory.**

Decisions of Management Organisations for Common Parts of the Buildings

8.12 When handling candidates' applications for displaying EAs or conducting electioneering activities in the **common parts** of the buildings, the management organisations for common parts of the buildings must adhere to the **principles of fairness and equality** in treating all candidates, and should note the following:

(a) the building management organisation should provide all candidates contesting in the same Rural Area **equal opportunity** to conduct electioneering activities;

(b) if any common parts of a building are available for candidates to display EAs or conduct other electioneering activities, the building management organisation should ensure all candidates contesting in the same Rural Area are given **equal opportunity** to use these spaces, and should establish rules for applying for use, and give reasonable notice to all candidates;

(c) as motions on whether candidates' electioneering activities should be allowed in buildings involve tenants' and occupants' rights, the building management organisations should invite all tenants and

occupants (including users who are not owners) to express their views, or decide on the motions by secret ballot when processing such applications. The building management organisations may also consider conducting a questionnaire survey to collect views of the tenants and occupants, and make decisions according to the majority view;

(d) when deciding on candidates' applications for electioneering activities in buildings, the building management organisations could also set out the time of the relevant activities as well as other reasonable rules to be observed by the candidates, such as not causing nuisance to users of the flats and the maximum number of persons allowed for home visits, so as to minimise the potential confrontation with or harassment of candidates by the attendees; and

(e) the building management organisation may consider to formulate rules applicable to all candidates for processing relevant applications.

Notification of Relevant Decision

8.13 After a decision is made on candidates' electioneering activities, building management organisations should notify the relevant RO in writing as soon as possible, enabling the RO to provide the candidates or members of the public with accurate information upon receiving their enquiries. A form of notifying the RO can be obtained from the HAD or downloaded from the RR Election website (www.had.gov.hk/rre). At the same time, building management organisations should also post a notice detailing the decision and the collateral conditions at the building entrance. If necessary, candidates may inquire with the DO or sub-offices of the District in which the building is located. However, if some building management organisations do not notify the ROs as they are unable to make a decision on candidates' electioneering activities, candidates should take that as such electioneering activities are not allowed.

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

8.14 Candidates should observe the specific guidelines when conducting electioneering activities in housing estates managed by the Housing Department and the Hong Kong Housing Society and "Light Public Housing" managed by the Housing Bureau, see **Appendix 6**.

PART V : PROTECTION OF ELECTORS' PERSONAL DATA PRIVACY

8.15 **Candidates and election agents should 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 (see **Appendix 7**), prepared by the Office of the Privacy Commissioner for Personal Data, serves as a general reference, illustrating matters relating to the collection, holding, processing and use of personal data that candidates should pay attention to when conducting electioneering activities.

8.16 In addition, any validly nominated candidate who requests the mailing labels of electors for his respective Rural Area from the RO must complete and sign the "Undertaking on the Proper Use of Electors' Information", undertaking that the relevant personal data will be used solely for the relevant electioneering activities of the election, and will be duly safeguarded to prevent disclosure to unauthorised persons. All the relevant personal data will also be duly destroyed after the election.

8.17 When conducting election-related 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 to electors by email, in order to ensure that individual electors' email addresses are not disclosed to other recipients.

8.18 To avoid emails containing election mails being mistakenly detected as spam emails and blocked, candidates may consider checking with the relevant email service providers in advance about restrictions on sending mass emails before sending election emails in bulk.

NOTE:

Information relating to individuals contained in any FR of electors or its extracts **can only be used for election-related purposes** prescribed by the electoral law. Any **abuse** or **misuse** of such information is an **offence**. [S 32(3) of the EAC (ROE) (RRE) Reg]

In accordance with 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 prescribed consent[48] of the data subject or an exemption under Part 8 of the PD(P)O, be used for a "new purpose"[49].

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

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[48] In accordance with s 2(3) of the PD(P)O, "prescribed consent" means the express consent given voluntarily, and not withdrawn in writing, by the data subject.

[49] In accordance with Data Protection Principle 3(4) of Schedule 1 to the PD(P)O, "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.

cause specified harm or being reckless as to whether specified harm[50] would be (or would likely be) caused to the data subject or his family member, the discloser commits an offence and is liable to a fine of $100,000 and to imprisonment for 2 years. Besides, 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]

PART VI : SANCTION

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

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

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[50] In accordance with s 64(6) of the PD(P)O, "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 the person's safety or well-being; or (d) damage to the property of the person.