

CHAPTER 2 CHAOS ON THE POLLING DAY

Introduction

2.1 Appreciating that hiccups are unavoidable in a large-scale event like the Election, we have put our focus on identifying and examining the major problems that led to the chaos on the polling day with a view to formulating ways to avoid the recurrence of similar incidents in future elections. This Chapter outlines the major problems examined by the Committee and our observations.

Insufficient Supply of GC Ballot Boxes and Delay in Replenishment

Supply of GC Ballot Boxes

2.2 The ballot papers and ballot boxes adopted in the Election were newly designed and used for the first time. To facilitate electors in identifying the candidates for their choices during the voting process, EAC made the Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation (Cap. 541M) to enable the printing of photographs and particulars of candidates, including names and emblems of the organizations that support them or to which they were affiliated, on the ballot papers. New GC ballot papers of A3 size, which are larger than those previously used, were adopted accordingly. A new type of GC ballot boxes was designed and produced as the much larger old ballot boxes would be too heavy to handle when filled with the larger and much

heavier new ballot papers. REO supplemented at its meetings with the Committee that since the counting arrangement for GC votes had not yet been decided at the time, new GC ballot boxes of smaller size were adopted to cater for the need of transporting the ballot boxes from the 501 polling stations to a central counting station in case central counting was adopted.

2.3 REO has confirmed that its staff had conducted a number of tests to ascertain the function of the new GC ballot box. However, since the design of the new GC ballot paper and hence the type of papers used had not been confirmed when they were required to finalize the design of the new ballot boxes in around April/May 2004, ordinary papers of A3 size (of 80 gsm in weight), instead of the thicker papers (of 100 gsm in weight) eventually adopted for the GC ballot papers, were used to test the capacity of the new GC ballot box. The papers were folded once before being inserted into the boxes through the front slot in the way which electors were expected to cast their votes. Two tests conducted by REO showed that about 1,000 ballot papers could be inserted into the new GC ballot box. According to REO, due to the need to handle other electoral arrangements, its staff did not re-test the capacity of the new ballot box when the design of the ballot paper was confirmed.

2.4 Upon the advice of the Secretary for Constitutional Affairs (“SCA”) that there should be a sufficient supply of ballot papers and ballot boxes, REO had increased the number of GC ballot boxes ordered from 2,700 to 3,200, which could, theoretically speaking, meet the

demand for the entire registered electorate of about 3.2 million, on the assumption of 100% voter turnout rate. 2,770 of the boxes were distributed to the 501 polling stations before the polling day and 424 of the remaining boxes were kept as reserve in the four emergency depots manned by REO, that were situated in Quarry Bay, Kowloon Bay, Tuen Mun and Tai Po.

Committee's Observations

2.5 We note from a paper submitted by REO to the LegCo Panel on Constitutional Affairs in February 2004 on the polling and counting arrangements for the Election that “to facilitate the handling of the larger-sized ballot papers during the counting process, new ballot boxes will be tailor-made so that ballot papers inserted into the ballot box will fall into a neat pile and can be retrieved readily for counting. The new ballot box, which can hold about 1,000 ballot papers, will be smaller than before so that it will not be too heavy to handle” (paragraph 8 of LC Paper No. CB(2)1309/03-04(03)). The heavier weight of ballot papers and the larger number of ballot boxes involved because of their smaller size, which might delay the counting process if the ballot boxes needed to be delivered to a central counting station for vote counting, were quoted by REO as reasons for soliciting LegCo’s support for EAC’s proposal to adopt the polling-cum-counting arrangement for GC votes, i.e. to decentralize vote counting for GCs in the Election to individual polling stations. This is different from the explanation given by REO to the Committee that the new design of the GC ballot box was based on the

assumption of centralized counting as the counting arrangement for GC votes had not yet decided when it was time to confirm the design of the new ballot box. SCA also confirmed at his meeting with the Committee that EAC had proposed to adopt the polling-cum-counting arrangement after the implementation of the measure in the 2003 District Council (“DC”) Election. Hence, different from what was quoted by REO, the fact that the counting arrangement had not yet been confirmed until July 2004 should not have any bearing on the design of the new GC ballot box subsequently adopted by EAC and REO.

2.6 We consider that REO’s testing on and estimation of the capacity of the new GC ballot box that formed the basis for the number of boxes ordered was the crux of the problem. REO’s estimation that a new GC ballot box could accommodate about 1,000 ballot papers was based on two tests conducted with ordinary A3-size papers which are lighter (and presumably thinner) than the new GC ballot papers. Given the importance of ensuring the sufficient supply of ballot boxes in an election, it is unacceptable that no further capacity test was conducted when the design of the new ballot papers, in particular the type of papers used, was confirmed even though REO might be working under a tight schedule and be occupied by other preparatory work at the time.

2.7 According to the tests conducted by EAC after the Election, shaking of the ballot box was required after the insertion of about 450 ordinary A3-size papers and with several occasional shakings, the capacity so tried out was about 900 papers. With another test by using

papers of the same thickness of the new GC ballot paper, EAC found that shaking of the box was required after the insertion of 315 papers and after several occasional shakings, the capacity of the box was found to be about 690. To better review the tests conducted by REO, the Committee has tried the capacity of the GC ballot box with the two types of papers. With the ordinary A3-size papers and samples of the new GC ballot papers, it was found that no more papers could be put in the box without shaking after the insertion of about 300 and 200 papers respectively. It is worth noting that the papers inserted into the box did not invariably fall flat and pile up neatly one over another as expected even though the papers have been folded once quite neatly before the insertion. In other words, the assumption that the papers inserted into the box would fall into a neat pile did not materialize. After several shakings and using rulers to press the papers inside the box through its front slot, the capacity of the box was found to be 805 and 580 respectively. We believe that if the tests on the design of the new GC ballot box and its capacity were conducted properly and more carefully, the design flaw of the ballot box should have been noticed and the serious over-estimation of the capacity of the box could have been avoided.

2.8 We share EAC's regret that REO had not envisaged that the ballot papers could be inserted into the ballot box by electors in many different ways and over-estimated the capacity of the box. However, if REO was more meticulous about the tests conducted on the new GC ballot box, it should have at least realized that how the ballot papers were folded when being inserted into the ballot box would have an impact on

the capacity of the box, and hence there was a need to remind polling staff and electors of the “proper” way to fold the ballot papers before the Election. The PROs whom the Committee has met confirmed that folding of the new GC ballot paper was not highlighted in the briefing sessions organized by REO. In this regard, it is also worth noting that at around 9:50 am on the polling day, after receipt of the first several requests for additional GC ballot boxes, the Central Command Centre (“CCC”) set up by REO to co-ordinate the electoral arrangements on the polling day had arranged a message sent through a computerized telephone system called the Interactive Voice Response System (“IVRS”) to remind all PROs that the polling staff should fold the GC ballot papers before issuing them to electors. Instructions of the requirement to occasionally shake the ballot boxes and to use rulers or other apt instruments to flatten and press the content through the slot of the boxes were also given to all polling stations whenever they called the CCC for additional ballot boxes. The measures were proved to be ineffective in addressing the problem as calls for extra boxes continued throughout the polling day. We therefore have strong reservation on the quality of the capacity tests conducted by REO.

2.9 In addition, given that the number of GC ballot boxes ordered was based on the assumption of 100% voter turnout rate, it seems more logical for REO to allocate the boxes to individual polling stations on the same assumption instead of keeping about 420 boxes in the four emergency depots as reserve. This would at least save the time in delivering the boxes to the polling stations and help relieve the shortage

problem on the polling day.

Replenishment of GC Ballot Boxes

2.10 CCC comprising different teams was set up by REO to oversee and co-ordinate the practical arrangements on the polling day. The CCC Helpdesk 2 headed by an Executive Officer I was responsible for providing logistical support and replenishment of supplies (including ballot boxes) to polling and counting stations. To have a clearer picture on how the problem of shortage of GC ballot boxes was handled on the polling day, in particular the unexpected long time taken to replenish the supply leading to a number of problems that would be covered in the later sections of this Chapter, we have attempted to draw up a chronology **at Annex D** based on the two EAC reports and further information collated by the Committee including REO's inputs. In this regard, REO has advised that given the hectic situation on the polling day, its records were not complete. The major events are highlighted in the ensuing paragraphs.

2.11 The first two requests for additional ballot boxes were received by the CCC Helpdesk 2 as early as at around 8:30 am on the polling day, i.e. an hour after the commencement of polling. By 11:30 am, about 80 polling stations had approached the Helpdesk for extra boxes. Requests for additional ballot boxes were received by the Helpdesk throughout the day until around 8:45 pm. Out of the 501 polling stations, 464 had made requests for extra ballot boxes on the polling day. The

situation was totally beyond REO's expectation. When CCC Helpdesk 2 first received requests for additional ballot boxes, its staff were very surprised and viewed the requests made on the basis that a ballot box could only hold below 100 and at most 200 ballot papers as quite incredible especially because they were the team conducting the tests on the capacity of the new GC ballot box. Their initial response was that the electors did not fold the ballot papers properly before inserting them into the ballot boxes. They hence asked the polling staff concerned to remind electors to fold the ballot papers properly before inserting them into the ballot box. As mentioned in paragraph 2.8 above, a message was sent through IVRS at around 9:50 am to remind all PROs that the polling staff should fold the GC ballot papers before issuing them to electors.

2.12 Upon receipt of additional requests for extra ballot boxes, CCC Helpdesk 2 started to arrange transportation of the reserve boxes from the four emergency depots to the polling stations. However, out of the 43 REO vans/lorries stationed at the four depots, only four were immediately available to deliver extra ballot boxes to the polling stations, since 35 had been deployed to deliver ballot papers to 281 polling stations at 7:45 am to increase the stock of ballot papers in these stations up to 100% of the registered electorate and the other four were engaged in the delivery of other electoral equipment. At around 11:15 am, the Helpdesk sought the assistance of the Hong Kong Police Force ("the Police") to help the delivery through the Police Liaison Officer stationed in CCC who then communicated with the subject officers of the various Police Districts on

the deployment of vehicles and manpower. The Helpdesk also obtained the agreement of the Government Logistics Department between 12:30 pm and 1 pm to arrange for four additional vans and hence a total of 47 vans were available for deployment by REO in the afternoon. In addition, delivery was made by taxi for urgent cases, i.e. stations that were using the last or the second last ballot box and no other vehicle was available for the delivery at the time.

2.13 Worrying that the 424 reserve ballot boxes might not be adequate to meet the demand, at around 12 pm, CCC, in consultation with the Chief Electoral Officer (“CEO”), decided to have resort to the 1,200 old white GC ballot boxes used in previous elections that were stored in the Tuen Mun Depot at the time. From around 1:30 pm to 2:30 pm, REO arranged transportation of the boxes to the other three emergency depots for delivery to polling stations. 620 old-style red ballot boxes and 130 old-style blue ballot boxes were also delivered to various District Offices for standby services at around 5:30 pm. There were however complaints that these old ballot boxes were not provided with padlocks when they were delivered to polling stations and hence not ready for immediate use.

2.14 CCC Helpdesk 2 got a consolidated list of the number of additional ballot boxes required by individual polling stations in the Central and Western District from the respective District Liaison Officer (“DLO”) at around 12:23 pm. At around 12:45 pm, the Helpdesk, in consultation with the Police, asked the remaining 17 DLOs to compile a similar list for their respective districts, which was available between

1:45 pm and 3:50 pm. With some adjustments, the lists were passed to the Police for follow-up action. According to REO's records, REO had made deliveries of extra ballot boxes (mainly the new GC ballot boxes) to a total of 180 polling stations including 52 stations to which the deliveries were made by taxi. The Police had made deliveries (of mainly old ballot boxes used in previous elections) to some 450 polling stations. The average duration between the making of the request for additional ballot boxes and the first arrival of ballot boxes at the polling stations was six hours and the longest duration was 12.5 hours.

Committee's Observations

2.15 We appreciate that the CCC staff especially those of Helpdesk 2 had tried their best to tackle the shortage problem and worked under great pressure on the polling day. However, they did not seem to be sensitive or vigilant enough to appreciate the severity and urgency of the problem at the early stage and take corresponding action promptly, given that their prime mission on the polling day should be to ensure sufficient supply of electoral equipment including, of course, ballot boxes to all polling stations. While agreeing with the need to assess the overall situation rather than simply distributing additional ballot boxes on a first-come-first-served basis, we fail to comprehend why the decision to use the old ballot boxes and to compile a list of the number of additional ballot boxes required for individual polling stations was not made until at and after 12 pm respectively. The available information also did not show that CCC or its Helpdesk 2 had immediately approached the DLOs,

who are supposed to be the contact persons or co-ordinators between polling stations of their respective districts and CCC, for an assessment of the situation that is essential to the planning of effective follow-up actions. On the other hand, both the CEO, and the staff of Constitutional Affairs Bureau (“CAB”) who were aware that ballot boxes were filled up quicker than expected, got the impression from their contacts with the Chief Commander in charge of CCC in the morning that the shortage problem was under control. The lack of a contingency plan for such a widespread problem or crisis may also be a reason for the inability of the staff concerned to take appropriate action at the first instance.

2.16 CCC or its Helpdesk 2 also did not seem to have played an effective co-ordinating role in the replenishment of ballot boxes. It is a pity that the records kept by REO on the replenishment of ballot boxes, including the timing and other details of the deliveries made by the Police, REO vans and taxi respectively were incomplete. The number of old ballot boxes that had actually been used was also not available. Despite the assistance provided by the Police, that a total of 47 REO vans were available for deployment in the afternoon and that according to REO, deliveries were made by taxi for urgent cases, the average time gap between the making of the request and the first arrival of additional boxes at the polling stations was six hours, which was obviously on the high side in a small and developed place like Hong Kong. We believe that the time gap could be shortened if there was better co-ordination among the deliveries made by different means.

2.17 The total number of taxi trips made by REO (46 according to REO's records) was also relatively small in the light of the severity and urgency of the situation. It was noted that the original 30 members of the staff of CCC Helpdesk 2 stationed at Hong Kong International Trade and Exhibition Centre ("HKITEC") in Kowloon Bay were eventually decreased to ten in a period in order to spare the workforce to help with the deliveries and as a result some telephone lines of the Helpdesk were left unanswered. However, it is worth noting that in addition to 51 REO staff manning the four emergency depots, there was a total of 170 reserve polling staff who were stationed in the depots. Excluding 28 of them who were deployed to serve at polling stations on the polling day and 70 of them who were deployed for delivery of ballot papers to polling stations in the morning, there should still be about 70 reserve polling staff available for making urgent deliveries of ballot boxes by taxi. Although REO has advised that some reserve polling staff did assist in the deliveries while some of them were required to help the depot staff to do other work, it could not confirm the number of reserve polling staff who had actually participated in the delivery of spare ballot boxes. We believe that with better co-ordination of resources including the manpower and the spare ballot boxes available, the shortage problem might have been contained or at least its impact might have been relieved.

2.18 The support provided by CCC Helpdesk 2 to the polling stations, in respect of both the replenishment of ballot boxes and the moral support given to the polling staff and its communication with the polling stations

was inadequate. According to the PROs whom the Committee has met, the Helpdesk staff could not provide any clear advice on what could/would be done with the shortage problem. Some even advised that there were no extra ballot boxes and that the polling staff needed to resolve the problem themselves. There were also complaints about the difficulty in contacting the Helpdesk staff or other CCC staff and that as a result the polling staff were put in a helpless situation. In our view, CCC or its Helpdesk 2 had failed to perform its functions effectively and efficiently in this aspect.

Measures Implemented due to Insufficient Supply of GC Ballot Boxes

2.19 Pending the arrival of additional GC ballot boxes, various stopgap measures were adopted in polling stations to relieve the emergency situation of insufficient boxes. Measures that have attracted most criticism have been examined in our review and are set out in the subsequent sections.

Opening of Ballot Boxes

2.20 To address the shortage problem, at around 3:30 pm on the polling day, EAC instructed PROs to unlock the front slot of the GC ballot boxes to compress the ballot papers inside the boxes, if necessary, before the arrival of extra ballot boxes. At around 4 pm, when visiting the CCC Kei Wan Primary School (Aldrich Bay) Polling Station (C0501)

and noticing the shortage problem, Mr. Norman Leung (the then EAC Member whose term of service expired on 29 December 2004) instructed the PRO to open the back of the ballot boxes in front of several agents to rearrange the ballot papers inside so as to free up space for more ballot papers. EAC then endorsed the decision and at around 4:40 pm asked REO to pass an instruction to all PROs telling them to follow suit if necessary and the boxes had to be opened in the presence of candidates or their agents, or, in their absence, a police officer should serve as a witness. According to the EAC Final Report, a total of 58 polling stations had opened ballot boxes for rearrangement of ballot papers inside so as to make room for more ballot papers. As confirmed by REO, the complaint case that was under investigation when the EAC Final Report was published has subsequently been confirmed as unsubstantiated. Hence, there were four substantiated complaint cases involving ballot boxes having been opened by PROs. The polling stations involved are Po Kok Secondary School (Q0801), Chi Hong Primary School (R0601), S.K.H. Chu Oi Primary School (S0601) and Shek Lei Community Hall (S0901). All of the ballot boxes concerned were opened in the presence of candidates/agents/police officers.

Committee's Observations

2.21 There was strong criticism about the opening of the ballot boxes especially those in the absence of candidates/agents. Indeed, opening of ballot boxes before the poll may fall under section 17(1)(e) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) which

stipulates that a person engages in corrupt conduct at an election if the person, inter alia, without lawful authority, destroys, removes, opens or otherwise interferes with a ballot box in use at the election. We appreciate the concern about the legality of the measure and above all, its impacts, if any, on the integrity of the election. We note that there is no statutory provision catering for unexpected contingencies or emergencies. Having examined the relevant electoral legislation, we agree with EAC's view that under sections 4(b) & (h) and 5(g) of the EAC Ordinance (Cap. 541), EAC has the power and authority to give instructions and directives for adopting expedient measures to deal with unexpected contingencies and emergencies. We consider the measure in context as a reasonable and necessary act adopted to deal with the emergency situation so as to obviate the need to suspend the poll or close the polling stations temporarily. In addition, we note from the EAC Final Report that all of the ballot boxes concerned were opened in the presence of candidates/agents/police officers. In some cases, the agreement of polling agents had also been sought. Hence, the integrity, impartiality and fairness of the election were not compromised.

2.22 According to "A Guide for Police Officers on Duty at Polling/Counting Stations" issued by the Police, the police officers concerned have a duty to ensure that the election is conducted in a fair, open, honest and clean manner. However, while accepting the role of police officers as independent witnesses during the opening of ballot boxes, we consider that the presence of candidates/agents as witnesses was more preferable under the circumstances for obvious reasons.

2.23 In conclusion, we are of the view that the measure is acceptable legally but not desirable.

2.24 In view of the significance and possible implications of the measure, we are also concerned about how EAC's instruction on the opening of ballot boxes was passed to the 501 polling stations, in particular the prerequisite for the opening regarding the presence of candidates/agents/police officers. It was noted that the instruction was passed to PROs by about 50 Assistant Returning Officers ("AROs") over the phone. No standard script had been provided to the AROs. According to the PROs whom the Committee has met, the instruction they received from CCC on the polling day regarding the opening of ballot boxes was not clear and varied in content. For example, some were asked to have the presence of ALL candidates/agents while some were told that the presence of one to two agents would suffice. Some received more than one phone call from CCC giving inconsistent advice on whether the presence of all candidates/agents was compulsory or desirable. In addition, there was no means for the PROs to verify the identity of the callers from CCC. We consider that the arrangement was not desirable given the significance of the issue involved. REO should adopt a more prudent approach in disseminating important instruction or message to polling stations.

Use of Cardboard Boxes as Ballot Boxes

2.25 According to the EAC Final Report, there were two cases involving the use of three cardboard boxes (the cartons used for storing the new GC ballot boxes when they were delivered to polling stations) as temporary ballot boxes in two polling stations, viz. Po Leung Kuk Fung Ching Memorial Primary School (Q0601) and LKWFSL Wong Yiu Nam Primary School (R3402). In one station, two cardboard boxes were used as temporary ballot boxes with the agreement of the polling agents of three different GC candidates' lists. The two boxes were sealed and signed by the PRO in the presence of the Assistant Presiding Officer ("APRO") and two polling agents, who also witnessed the transfer of the ballot papers in the cardboard boxes to one of the extra ballot boxes later delivered by REO. The cardboard boxes concerned were returned to REO after the conclusion of the Election. The Committee has inspected one of the cardboard boxes which were sealed in the same way, and found that the box was sealed with adhesive tapes (with the top subsequently opened for transfer of the ballot papers inside the box to an additional ballot box allocated by REO) and signed by the PRO. There was a slot made on one side of the cardboard box for insertion of ballot papers and it was also sealed by adhesive tapes.

2.26 For the other case, it was noted that one cardboard box was used as a temporary ballot box and the entire process of ballot casting was conducted in the presence of a polling agent and a police officer who also witnessed the transfer of ballot papers from the cardboard box to one of

the original ballot boxes after it was opened and the ballot papers inside had been rearranged to free up space for more ballot papers. Since the cardboard box had not been returned to REO and could not be found after the Election, we cannot establish how the box was sealed.

Committee's Observations

2.27 We share the concern about the legality and appropriateness of the measure. Under section 47 of the Electoral Affairs Commission (Electoral Procedure)(Legislative Council) Regulation (“EAC(EP)(LC) Reg”) (Cap. 541D), that is the only provision governing the design of a ballot box, a ballot box to be used for an election is to be so constructed that ballot papers can be introduced into it while it is locked but cannot be withdrawn from it without unlocking it or breaking the seal or the sealing device. After examining one of the cardboard boxes used and reviewing the relevant legislation, it would appear that except for the absence of a locking device, the cardboard boxes could well be qualified as makeshift ballot boxes. In view of the emergency situation at the time where not too many alternatives were available, we consider that this stopgap measure is acceptable from the legal point of view. However, the measure is not desirable as it caused unnecessary suspicion that the integrity and solemnity of the Election might be compromised. We note that the three makeshift ballot boxes in question were later broken open and the ballot papers were transferred to “normal” ballot boxes in front of agents. This action is in line with the direction of EAC on the opening of ballot boxes for rearranging ballot papers inside, which we have

examined in the previous section.

2.28 We also note with concern that the PROs in question did not consult CCC or AROs (Legal) before resorting to use cardboard boxes as ballot boxes. The latter were responsible for advising, inter alia, PROs on legal matters relating to the poll and the count. The PROs did not even take the initiative to report the cases to CCC on the polling day. This reflects that there is a lack of awareness among the polling staff of the sensitivity and importance of the issues that they were handling.

Use of Rulers etc. to Press Ballot Papers inside Ballot Boxes

2.29 As mentioned in paragraph 2.8 above, upon receipt of several requests for additional boxes, instructions of the requirement to occasionally shake the ballot box and to use rulers or other apt instruments to flatten and press the content of the box through the front slot were given by CCC to all polling stations whenever they called CCC for additional boxes with a view to relieving the shortage of ballot boxes. As regards the complaints and concern about the appropriateness of the measure, both EAC and REO have reiterated that the measure had been adopted in previous elections without any complaint. It was implemented to avoid jamming of the slot and to ensure that ballot papers fell better and more smoothly into the ballot box so as to free up space for more ballot papers. The PROs whom the Committee has met confirmed that this was an established practice.

Committee's Observations

2.30 When testing the capacity of the new GC ballot box, we found that the slot of the box would be jammed after the insertion of a certain number of ballot papers. Shaking the box and using instruments like rulers to press its content are believed to be common practices adopted to free up more space in the box especially in view of the shortage of ballot boxes. Noting that it was an established practice adopted in previous elections and REO's confirmation that there were no ballot papers damaged in the Election as a result, we consider that the measure is acceptable as a stopgap measure to relieve the emergency situation arising from the shortage of ballot boxes given that the integrity of the election would not be compromised as a result. We have also examined section 54(5) of EAC(EP)(LC) Reg (Cap. 541D), which stipulates that a person must not put anything other than a marked ballot paper into the ballot box, together with other subsections of section 54. We are of the view that the insertion of a ruler or a similar instrument only for the purpose of pressing down the content and withdrawing it immediately from the ballot box with no intention of depositing the instrument into the ballot box should not be construed as being in breach of the provision.

Over-crowding and Prolonged Queuing at Polling Stations

2.31 There were complaints and criticism about the problem of over-crowding and prolonged queuing at some polling stations and allegations that as a result, some electors were put off and left without

casting their votes. According to the EAC reports, the majority of the complaints received was related to a polling station located at Ying Wa Girls' School (A0301) and the cause of the problem was that the staff obtaining the School's permission to use the entrance foyer only had failed to foresee that a larger space would be needed because of the increased registered electorate assigned to the station and a much higher voter turnout rate for the station when compared with previous elections.

Committee's Observations

2.32 We consider that the problem was attributed to several factors including the shortage of GC ballot boxes and delay in replenishment of the supply, the small size of the venues concerned and the existing polling arrangement. We have covered the first factor in the previous sections and are not going to repeat here. As regards the selection of polling stations, we consider that instead of simply consulting District Offices before deciding on the venues as REO did for the Election, REO should seek the agreement of District Offices to play a more active role in the identification of venues for use as polling stations and liaison with the venue management, since staff of District Offices are more familiar with the local community and environment. Among the comments we received, there was criticism about the small size of some polling stations, and reservation on locating a polling station in a municipal services building because of the overcrowding problem resulted in the lift lobby. Hence, there is a need to conduct a more critical review on the suitability of individual polling stations in respect of their location, size etc. after

each election by taking account of the complaints received, if any, and the views of polling staff.

2.33 Apart from prolonged queuing for inserting the ballot papers into a ballot box, there were also complaints about the long queues at ballot paper issuing desks. Under the existing practice, each ballot paper issuing desk in a polling station is responsible for serving the electors of a specified range of Hong Kong Identity Card (“HKID”) numbers. Since the turnout of electors of different ranges of HKID numbers was not evenly distributed throughout the day, there were occasions where there were long queues at some issuing desks while polling staff at the other issuing desks were left idle. The existing manual process of checking an elector’s identification against the entry on the Final Register, issuing ballot papers (for both GC and FC where appropriate) and making relevant statistical returns is also quite time consuming. We consider that there is room for improvement.

2.34 Having said that, we would like to highlight that with the expanding registered electorate and increasing voter turnout rate, an elector may unavoidably need to take a longer time than before to queue up for casting a vote. Electors should appreciate the significance of an election and be more tolerant and above all, not give up the right to vote lightly.

Long Working Hours of Polling-cum-Counting Staff

2.35 Different from previous LegCo elections, polling-cum-counting arrangement, i.e. each polling station for electors to cast their votes was also to conduct the counting of votes after the close of poll, was adopted for the first time for GC votes in the Election. The arrangement had been used and tested in several by-elections of the DCs in 2002 and 2003 and in the ordinary election of the DCs held in November 2003. All polling staff recruited to man the polling stations in the Election, with the exception of those working in 16 small polling stations², had to work through the poll and the count after the polling stations were converted into counting stations.

2.36 There were, on average, about 100 counting stations (converted from polling stations) in each GC. A counting station which had completed the count for GC votes would need to wait for the completion of the count in the last counting station in the same GC and the confirmation that no re-count for the whole GC was required before the staff concerned could be released. The time that AROs authorized the counting result of the last counting station in their respective GCs in the Election ranged from 3:53 am to 5:44 am on 13 September 2004. In view of the problems with the compilation of the voter turnout figures that would be elaborated in paragraphs 2.48–2.51 below, EAC decided to postpone the announcement of the counting results until the completion

² In accordance with the EAC(EP)(LC) Reg (Cap.541D), small polling stations are defined as stations with less than 500 registered electors and ballot papers from these stations would be mixed before counting after the close of poll.

of the manual verification of the voter turnout figures at around 6:30 am. The formal announcement of the election results for respective GCs was made from about 7:45 am to shortly after 12 noon on 13 September 2004 as candidates of the Hong Kong Island GC requested a re-count of all the votes in the constituency when the counting result was made known to them at about 6:30 am. The polling-cum-counting staff needed to stand by at the counting stations before the respective ROs gave permission to close down the stations.

2.37 There was criticism that the main reason for EAC and REO to combine the polling and counting duties in the Election was to achieve resource saving, and that the long working hours had scared off experienced polling/counting staff to serve in the Election. On this allegation, EAC had emphasized at its meeting with the Committee that availability of resources had not been the Commission's concern when planning the polling and counting arrangements for the Election. The polling-cum-counting arrangement and the resultant combination of the polling and counting duties were drawn up mainly to speed up the counting process and the announcement of the election results, and to avoid the security problem arising from transportation of the ballot boxes from polling stations to counting stations. SCA also reiterated at his meeting with the Committee that although the Government experienced a budget cut in recent years, there was no reduction in the resources allocated to REO for the conduct of elections. It was noted that the Government had earmarked \$275,540,000 for the Election, and the actual expenditure for the 2000 LegCo Election was \$275,160,000. Apart

from promotional and publicity activities, the estimated expenditure for other practical arrangements was about \$180,000,000 for the 2000 LegCo Election while that for the Election was over \$200,000,000.

Committee's Observations

2.38 While appreciating the good intention of speeding up the counting process, we consider that EAC and REO had under-estimated the complexity and scope of the Election as compared with the 2003 DC Election when working out the counting arrangements. There were, on average, about 100 polling stations in each GC in the Election while there was normally only one polling station in most of the constituencies in DC elections. Hence, the time taken for all the counting stations in the same GC to complete the counting and then for the RO to confirm whether a re-count was required, that in turn determined when a counting station could be closed, was much longer in the Election. In addition, the polling staff was required to take care of not only the GC votes but also the FC votes at the same time, and hence had a heavier workload when the poll was underway. Even if there were no problems with the compilation of voter turnout figures and that the candidates of the Hong Kong Island GC had not requested a re-count after the announcement of the counting results at around 6:30 am, the earliest time that the AROs authorized the counting result of the last station in their respective GCs was 3:53 am. The polling-cum-counting staff concerned had already worked for about 20 hours.

2.39 It was noted that polling-cum-counting staff were told before the polling day that the estimated time of their release would be about 4:30 am when all the ROs would have decided whether a re-count had to be conducted. Such “planned” working hours (over 21 hours as polling staff were requested to arrive at the polling stations not later than 6:45 am) are still too long in our view. It is doubtful whether the staff can still maintain the required vigilance when performing the counting duties after manning the polling station for over 15 hours even with some breaks in between.

2.40 As regards EAC’s recommendation of decentralizing the counting of GC votes to the regional or district level, all three political parties that the Committee has met, viz. the Democratic Party, the Liberal Party and the Democratic Alliance for Betterment of Hong Kong, expressed their support for the polling-cum-counting arrangement adopted in the Election. We have no objection to the continual adoption of this arrangement provided that corresponding planning and logistics arrangements including manpower deployment could be made properly. In this regard, if resource implication is not a concern, we cannot see why there could not be a separate shift of polling and counting staff even if the polling-cum-counting arrangement would continue to be adopted in future.

2.41 On EAC’s recommendation of making it a statutory requirement for an automatic re-count to be conducted right after the first count is completed, we have reservation on its effectiveness in addressing the

problem. Since candidates/agents have the right to request a re-count, the proposed measure cannot stop such requests and obviate the need for the staff concerned to wait at the counting stations to see whether a re-count is required.

Eviction or Exclusion of Candidates or Their Agents from Polling Stations

2.42 With the polling-cum-counting arrangement adopted for GC votes in the Election, except the 16 small polling stations, the remaining 485 polling stations were required to be converted into counting stations upon the close of poll. There were complaints that candidates/agents (mainly counting agents) were not allowed to stay or enter the polling stations to witness the conversion. According to the EAC Final Report, 33 polling stations were involved in complaint cases relating to eviction or exclusion of candidates or agents from polling stations during the conversion period. Some were caused by miscommunication between the candidates/agents and the polling staff concerned, and some were due to the PROs' misunderstanding that polling agents instead of counting agents were allowed to stay during the period or that PROs had the discretion to decide whether candidates/agents should be admitted to the station to witness the conversion. Cases causing most concern and suspicion were those in which no candidates/agents were admitted during the conversion period, and there were five substantiated complaint cases of this nature that were set out in Appendix VIII to the EAC Final Report.

Committee's Observations

2.43 According to the EAC Interim Report, the PROs' misunderstanding about the statutory requirements was mainly due to an error in the Operation Manual (the third last bullet item on Checklist E) which stated that polling agents instead of counting agents might stay to witness the conversion, which was inconsistent with the relevant provisions of the EAC(EP)(LC) Reg (Cap. 541D) and the Guidelines. In addition, paragraph 7.22 of the Operation Manual which stated that "During the conversion, the candidates/agents may be allowed to stay inside the station" may also give rise to a possible interpretation that a PRO has the discretion to decide whether a candidate/agent should be admitted to the station during the conversion. However, we consider that this clause not only may cause the misunderstanding, but also is not consistent with the EAC(EP)(LC) Reg (Cap. 541D) which stipulates that a candidate and an election agent and a counting agent of such candidate may stay in a polling station while it is closed for the preparation for the counting of votes. The discretion is with the candidate/agent rather than the PRO as implied by the existing drafting of paragraph 7.22 of the Operation Manual.

2.44 The Operation Manual is drawn up to facilitate the discharge of duties by the polling staff for the conduct of the election in an open, fair and honest manner. The error or inconsistency of the Operational Manual as pointed out above reflected that the preparation work had not been done properly. It is unacceptable given the importance of the

document. The problem is avoidable if the Manual has been compiled and verified with caution.

2.45 Having said that, we consider that all polling and counting staff, in particular the PROs, also had the responsibility to familiarize themselves with both the related legislation and the Guidelines. The PROs concerned should have consulted CCC if they were in doubt when facing the requests raised by the counting agents. There was one complaint case involving eviction of a candidate. The mistake made by the PRO is unacceptable. It is not in line even with the Operation Manual with the error mentioned above. The PRO was obviously not familiar with the electoral process and the related requirements. In fact, some submissions received by the Committee have highlighted the uneven performance of the PROs and inadequacy of the training provided to polling staff as issues of concern.

2.46 A PRO whom the Committee has met still held the view that PROs had the discretion to decide whether a candidate/agent should be admitted to the station during the conversion after he had read the relevant statutory provisions. Some PROs also doubted the need to allow candidates or agents to witness the conversion given that the ballot boxes had been sealed properly with candidates/agents as witnesses after the close of poll. Some expressed reservation on whether it was desirable to do so since the venue was too small to accommodate the candidates/agents and it was difficult to spare staff to take care of the sealed boxes when the conversion was in progress. The reaction of

these PROs fully reflected their lack of awareness and understanding of the importance of ensuring the transparency of the electoral process, which is a principle that needs to be upheld throughout the election. On the other hand, we consider that the physical restriction of the venue is a valid concern. Hence, if the polling-cum-counting arrangement would continue to be adopted in future elections, consideration should be given to identify venues with sufficient space for having separate polling and counting areas as far as practicable.

2.47 Under the existing system, a candidate may appoint various categories of agents, including election agents, polling agents and counting agents. Some polling staff might have difficulty in comprehending the roles and rights of different types of agents. Some may consider that polling and counting agents are appointed to take care of the polling and counting process respectively, which does not cover the period during which a polling station is being converted into a counting station, since neither polling nor counting is in progress at that time. We therefore support EAC's recommendation of merging the roles of polling and counting agents under which it would be clear that all agents, except election expense agents, are entitled to remain or get into the station before, during or after the close of poll.

Problem in Compilation of Voter Turnout Figures

2.48 Instead of following the past practice of relying on person to person calls, a computerized telephone system called IVRS, which was

firstly used to collect electoral figures on the polling day in the 2003 DC Election, was adopted in the Election to automatically collect electoral statistical figures through telephone calls from the polling and counting stations. The hourly voter turnout figures of 501 polling stations for GCs and FCs and the counting results from 485 counting stations for GCs were two main types of statistical information collected through the system in the Election. The EAC Final Report has given a detailed account of the problem of the system in the compilation of voter turnout figures on the polling day including findings of an investigation conducted by a separate team of REO.

2.49 REO's investigation concluded that there was a shortfall in the design of the software programme which seriously impaired the capacity and performance of the database server to retrieve records and perform calculation and led to the failure of the voter turnout figure reporting function of the system. As a result, many polling stations failed to complete the report on the voter turnout figures (mainly the FC-related figures) in the designated 15-minute interval (viz. the second quarter of each hour) with effect from about the third reporting period (i.e. 10:15 am – 10:30 am). In addition, the test cases conducted did not represent the real life situation. Instead of testing the system on the basis of one GC and 28 FCs per polling station, the test cases that were drawn up to simulate the reporting process of each polling station consisted of voter turnout figures for one GC and one FC only. There was also no detailed contingency plan for software system failure. The investigation concluded that the subject team of REO (i.e. the Technical Services Team)

relied too heavily on the Continuous Technologies International Limited (“CTIL”), the vendor, in preparing the test plan and devising the contingency measures in case of system failure.

2.50 In view of the technical problems with IVRS in compiling the voter turnout figures, the Technical Services Team of REO had concern about the integrity of the figures and hence decided to conduct an overall verification of all voter turnout data manually with CTIL after the close of poll. According to REO’s investigation, the merging of the updated data (i.e. data verified manually) from the back-up database with the old data in the online database (i.e. data supplied through IVRS) led to the “abnormal” increase of the final voter turnout rate to 69% as shown on the IVRS computers after the announcement of the provisional total turnout rate of 53% by the Chief Executive at around 11:30 pm on the polling day. This was because during the merging process, the updated and old data existed at the same time. In view of the “abnormal” voter turnout rate at 69%, EAC decided to suspend the announcement of the counting results until the completion of the manual verification of the voter turnout figures at around 6:30 am on 13 September 2004 though all counting stations had successfully reported the figures through IVRS and the AROs had authorized the counting results from 3:53 am to 5:44 am.

2.51 While admitting the design flaw in the software that led to the failure of the voter turnout figure reporting function, CTIL reiterated at its meeting with the Committee that the system did successfully collect counting results when the manual verification of the final voter turnout

figures of all the polling stations was conducted. Hence, they did not agree that the delay in the announcement of the counting and election results was caused by the failure of the voter turnout figure reporting function of IVRS. They claimed that the manual verification could have ended earlier had they not been informed that the vote counting was still underway. We note from the EAC Final Report that REO would seek legal advice from the Department of Justice on appropriate follow-up action with CTIL including the question of possible compensation. In this regard, we would like to highlight that views collated by the Committee including those from the meetings with the representatives of the Technical Services Team of REO and CTIL were for the purpose of conducting the review and compiling this report only.

Committee's Observations

2.52 Apart from meeting the Technical Services Team of REO and CTIL, the Committee has also examined related information including the User Requirement Specification Document, the server log and call log, the system configuration diagram, and the contract for the system. We consider that there was no problem with the User Requirement Specification Document. The major causes of the failure of the voter turnout figure reporting function of IVRS were the design fault and deficiency of the testing conducted on the system.

2.53 The system was designed in a way that every time when the accumulated voter turnout figure was calculated, the calculation started

from the very first reporting period and hence required more capacity for the data involved and took a longer time to complete when the poll went on. It is obvious that the size of the turnout figures (i.e. the data involved) was under-estimated. Hence, the system had started to have difficulty in processing the inputs from 501 polling stations in the same 15-minute reporting interval since the third hourly reporting period. As a result, calls were cut off when only partial reporting was made and some stations could not even get in the system. In this regard, we also consider that the design of the system is not satisfactory for allowing incomplete figures to be collected to compile the total turnout figure for each GC and FC.

2.54 As regards the testing conducted, we are surprised to find that the Users Acceptance Test (“UAT”) only focused on the concurrent transactions of one GC and one FC. Although REO had conducted four rounds of “End-to-End” testing under which test cases of about 20 users were entered into IVRS from 7:30 am to 10:30 pm continuously for 15 periods of time, the cumulative effect of inputs from 15 reporting periods involving one GC and 28 FCs (or at least 17 contested FCs) had not been tested. Hence, the tests conducted were functional tests rather than capacity tests. In this regard, we consider that being the end-user, REO should work out some realistic scenarios for the UAT rather than relying on the test plan devised by CTIL. The design flaw would have been discovered if a real life test involving inputs from 501 stations on the returns for one GC and 28 FCs (or 17 FCs) for 15 reporting periods was conducted or if there was a trial run for the system. In addition, apart

from the contingency plan for hardware failure as provided with the system, there should also be a fallback plan on manual compilation of the figures in case of any breakdown of the reserve hardware or any software problem like the one occurred on the polling day.

2.55 We have also examined how the system failure was handled on the polling day. It is beyond doubt that both the Technical Services Team of REO and CTIL had tried their best to identify the problem and take remedial action as soon as possible. A patch was developed by CTIL to help rectify the problem. However, in our view, it is risky to work on the production system. When executing a system or database recovery action on a production system, extreme care is required. For a software breakdown, if the database remains intact, we consider that it would be more desirable to compile the voter turnout figures manually. During the recovery process, since the system may not be processing data in the normal manner, any reporting process using the database (e.g. display of the total voter turnout figure on the IVRS computers) should also be suspended to avoid confusion arising from any inaccurate figures.

2.56 We note that the key personnel of the Technical Services Team of REO were Executive Officers and did not have any experience in the development, implementation and operation of IVRS and/or other information or information technology (“IT”) systems before joining REO. There was only one contract staff who had more than ten years of working experience in the IT field. In other words, the subject team lacks the experience and expertise in testing, implementing and

overseeing the mission critical system. They should have approached other professional departments for assistance rather than relying solely on the vendor.

2.57 Apart from the system used to compile the voter turnout figures, it has come to our attention that polling staff of each ballot paper issuing desk were required to compile various statistical returns on an hourly basis by filling in a number of forms, which included –

- (a) the hourly return on age and sex profile of GC electors (i.e. P(16) **at Annex E(1)**) by using each of the five strokes in the Chinese character 正 to record the related information of every GC elector who had been issued with a ballot paper and adding the number of characters written together with the unfinished one to get the total number;
- (b) the hourly control sheet on GC ballot papers issued (i.e. P(12) (GC) **at Annex E(2)**) by filling in the serial numbers of the counterfoils of the ballot papers in hand before and after the reporting hour and those received from PRO during that period; and
- (c) the hourly control sheet on FC ballot papers issued (i.e. P(12) (FC) **at Annex E(3)**) by filling in the serial numbers of the counterfoils of the ballot papers of each FC in hand before and after the reporting hour and those received from PRO during that

period.

APRO (Statistics) of each polling station was required to compile the statistical returns on the hourly voter turnout for the GC (i.e. P(15) **at Annex E(4)**) based on the returns from each issuing desk on item (a) above, and on the hourly voter turnout for each FC (i.e. P(20) **at Annex E(5)**) based on the returns from each issuing desk on item (c) above. The Deputy Presiding Officer (“DPRO”) then needed to report the hourly voter turnout figures for the GC and FCs collated by the APRO to the Statistical Information Centre (“SIC”) of CCC through IVRS. All of the above-mentioned compilation and reporting work had to be conducted in the same 15-minute reporting interval mentioned in paragraph 2.49 above. It is worth noting that even before the failure of IVRS, there were over 60 polling stations that either failed to report any voter turnout figure or had reported only partial voter turnout information in the first two hourly reporting periods though there was a possibility that the polling staff concerned were occupied by other issues such as handling of complaints and hence could not make the hourly report. We are however of the view that the need for the polling staff to compile a number of statistical returns on an hourly basis would unavoidably increase their workload and exert pressure on them on the busy polling day, and the accuracy of the returns compiled including the voter turnout figures may be affected as a result. In addition, some returns, such as items (a) and (b) quoted above, were duplicate to a certain extent and hence there is room for streamlining.

2.58 Although compilation and announcement of the voter turnout figures is not a statutory requirement, the figures are important to the stakeholders in an election including candidates and their agents. SCA also pointed out at his meeting with the Committee that the voter turnout figures formed an essential part of an election as the figures would indicate the voting trend and serve as a check and balance mechanism for ensuring the integrity and impartiality of the election. These views were shared by the three political parties which the Committee has met. We therefore consider that the reliability and accuracy of the voter turnout figures should not be compromised and their importance should not be downplayed by the fact that they were indicative figures only.

Delay in Announcement of Election Results without Explanation

2.59 As set out in paragraph 2.48 above, collecting the counting results of GCs from 485 counting stations was one of the main functions of IVRS adopted in the Election. All counting stations successfully reported the figures through the system. The time that the ARO authorized the counting result of the last counting station in each GC ranged from 3:53 am to 5:44 am on 13 September 2004. However, in view of the “abnormal” total voter turnout rate of 69% as shown on the IVRS computers at around 11:30 pm on 12 September 2004, EAC decided to suspend the release of the counting results until the completion of the manual verification of the voter turnout figures at around 6:30 am on 13 September 2004. The election results were then announced from about 7:45 am to shortly after 12 noon. The announcement of the

results had been further delayed because candidates of the Hong Kong Island GC requested a re-count of all the votes in the constituency when the counting result was released at about 6:30 am.

2.60 There was criticism about the delay in the announcement of the election results. According to the three political parties which the Committee has met, there was no announcement or explanation on the delay and this, together with the overcrowding problem of the Press Centre, had aroused much discontent.

Committee's Observations

2.61 We understand from both EAC and REO that on the polling day, the former was not aware of the root cause for the failure of IVRS in the compilation of the voter turnout figures, not to say the reason for the sudden increase in the final voter turnout rate to 69% as shown on the IVRS computers during the manual verification process, and hence lost confidence in IVRS when noting the “abnormal” total voter turnout rate. In our view, EAC’s decision of deferring the release of the counting results and the announcement of the election results pending the completion of the manual verification of the voter turnout figures is understandable, though the delay could have been avoided had REO explained to EAC how IVRS worked in compiling the voter turnout figures and the reason for the sudden increase in the final voter turnout rate.

2.62 According to the three political parties which the Committee has met, they were not aware of the failure of the voter turnout reporting function of IVRS and the subsequent decision made by EAC to postpone the release of the counting results and announcement of the election results on the polling day. The display of all data on the video walls in the Press Centre had been suspended after 4 am on 13 September 2004 with no announcement or explanation. Such lack of transparency has led to unnecessary suspicion and discontent. We consider that EAC should have acted more proactively and made public announcements on why the release of the counting results and the formal announcement of the election results were delayed. In our view, the public relations work had not been done properly on the polling day.

Ballot Discrepancies in Some FCs

2.63 According to the two EAC reports, a few candidates from four FCs, namely the Social Welfare FC, Labour FC, Accountancy FC and Health Services FC, claimed that the number of cast ballot papers counted had exceeded the number of voter turnouts as announced. There were also two complaints alleging that the number of votes counted was 350 less than the number of ballot papers issued for the Education FC. EAC has investigated into the cases and details of the findings are set out in the two EAC reports. The investigation concluded that there were recording and computation errors about the voter turnout figures partly because of the system failure of IVRS, but the election results had not been affected. EAC also stressed that the voter turnout figures announced on an hourly

basis were meant for provisional reference only. Insofar as the ballot papers counted were equal to or smaller than the figures of the ballot papers believed to have been cast as shown by the ballot paper account, one could be quite sure that there was nothing that should give rise to concern.

2.64 Some submissions received by the Committee (mainly from PROs and ROs) pointed out that it was confusing for a polling station to deal with both GC and FC votes at the same time and there were suggestions that separate polling stations should be provided for the election of FCs. Some political parties which the Committee has met also raised concern about the way in which FC ballot papers were issued. According to them, electors were told to go to a separate issuing desk to get the FC ballot papers where they were no longer required to show their identification or any proof of their eligibility as FC electors. The arrangement is different from the electoral procedure drawn up by REO under which both GC and FC ballot papers would be issued at the same issuing desk after the identity of an elector is checked against the Final Register.

Committee's Observations

2.65 We accept the findings set out in the two EAC reports but consider that there is a need to improve the reliability and accuracy of the voter turnout figures though they only serve as an indicator and neither compilation nor announcement of the figures is a statutory requirement.

As mentioned in paragraph 2.57 above, the various statistical returns that each polling station is required to compile and the forms that they need to fill in on an hourly basis will increase the burden of the polling staff and make them more prone to mistakes on the busy polling day. We consider that polling staff should put their focus on the polling and counting work and leave the compilation of statistics other than the voter turnout figures (e.g. sex and age profile of electors) to a later stage, which should be technically feasible based on the electors' HKID numbers. In addition, the statistical returns required from polling stations should be streamlined as far as possible. For example, given that the hourly GC voter turnout figures are compiled through the writing and counting of the Chinese character 正, we do not see the need for keeping the hourly control sheet on GC ballot papers issued based on the serial numbers of the counterfoils of the ballot papers.

2.66 To facilitate FC electors, we consider that the arrangement of allowing the casting of both GC and FC votes in the same polling stations should continue. Given the small number of FC electors involved in a polling station, we have no objection to designating a separate issuing desk for all FC ballot papers. However, there should be safeguards to ensure that the ballot papers are issued to eligible electors only.

Other Issues

2.67 There are some other problems regarding the practical arrangements on the polling day such as the inadequacy of assistance

provided to those with mobility problems including the disabled and the elderly. As explained earlier, we have decided to put our focus on those major problems that led to the chaos on the polling day. We will refer other problems mentioned in the submissions received, which are relatively minor in nature, to the relevant authorities for follow-up action.

2.68 We have also examined two issues that are related to the practical arrangements on the polling day though they were not causes of the chaos, viz. the practice of asking polling staff to bring ballot papers home in advance, and the issue of “TENDERED” ballot papers. Although they may not fall squarely within our terms of reference, we would like to set out our views for the consideration of the authorities concerned so as to further improve the electoral process.

Bringing Ballot Papers Home by Polling Staff

2.69 We note that following the established practice, in the Election, some PROs and other polling officials were requested to bring home about 40% of the ballot papers required for the entire registered electorate of their respective polling stations and carry them to the polling stations before the commencement of the poll. As mentioned in paragraph 2.12 above, 35 REO vehicles were deployed to deliver ballot papers to 281 polling stations at 7:45 am on the polling day in order to increase the stock of the papers up to 100% of the registered electorate. As explained by REO, the new ballot papers were too heavy for the polling officials to keep with themselves more than 40%. On the security of this

arrangement, REO pointed out that the counterfoil of each ballot paper had a serial number, and any anomalies could be easily detected and appropriate action would be taken. Such practice had been in use for many years and there was no record of any malpractice. Upon our enquiry, REO also pointed out that delivery of all ballot papers to the 501 polling stations before the commencement of the poll was not feasible since it took about 40 - 45 minutes for the polling staff of each station to complete the checking on the ballot papers allocated including the serial numbers of their counterfoils. Advance delivery was also not feasible as it would pose security problem and the papers would require over-night guarding.

Committee's Observations

2.70 Although the practice had been in use for many years, we consider that it is not a satisfactory arrangement since it would arouse unnecessary suspicion and concern about the integrity of the election. We suggest that arrangement should be made for each PRO to check in advance the ballot papers and other electoral equipment to be allocated to his polling station. After the checking, the items would be sealed with the respective PROs' signature and then delivered by REO to the respective stations on the polling day before the commencement of the poll.

Issue of “TENDERED” Ballot Papers

2.71 As explained in the EAC Final Report, under section 60 of the EAC(EP)(LC) Reg (Cap. 541 D), where a person representing himself to be a particular elector or authorized representative (“AR”) asks for any ballot paper at a polling station after a person has been issued with any ballot paper earlier as such an elector or AR, he will be issued with a ballot paper with the word “TENDERED” endorsed on the front. Such a ballot paper even after insertion into the ballot box will not be counted as a valid vote. There were complaints that such an arrangement would in effect deprive the elector of his right to vote.

2.72 Some submissions received by the Committee pointed out that there were cases in which an elector was told that another person with the same HKID card number had already voted when he turned up for voting. The elector was given a “TENDERED” ballot paper but was not told that the paper would not be counted.

Committee’s Observations

2.73 While fully appreciating the need to avoid a person from deliberately impersonating another elector or trying to cast his vote twice intentionally, we consider that an elector’s right to vote should also be respected and protected. All practicable measures should be adopted to avoid crossing out of the name of an elector from the Final Register

because of human errors. The PROs concerned should also be informed whenever such cases are found. He should explain to the elector concerned the existing arrangement including the rationale for issuing a “TENDERED” ballot paper and take the initiative to report such cases to the Police for follow-up action.