

## **EXECUTIVE SUMMARY**

### **Background**

1. The third term Legislative Council Election (“the Election”) was held on 12 September 2004. On the polling day and the days after, there was wide media coverage about the election results and complaints relating to the polling and counting arrangements, including the shortage of ballot boxes for the election of Geographical Constituencies (“GCs”), use of cardboard boxes as temporary ballot boxes, opening of ballot boxes to rearrange the ballot papers inside the boxes, delay in the announcement of the election results, and discrepancies between the number of ballot papers issued and the number of votes in the final outcome for some Functional Constituencies (“FCs”).

2. In accordance with section 8 of the Electoral Affairs Commission Ordinance (Cap. 541), the Electoral Affairs Commission (“EAC”) submitted a report on the Election to the Chief Executive on 11 December 2004. In view of the public concern on the chaos on the polling day, an interim report was submitted by the Commission to the Chief Executive on 8 November 2004. The Interim Report has revealed a number of administrative and planning errors relating to the practical arrangements for the Election, and that there is room for improvement in the planning and conduct of elections. In view of this, the Chief Executive announced on 10 November 2004 that a non-statutory independent committee of experts would be set up to review the management,

planning and conduct of elections, and to make recommendations on improvement measures. We were subsequently appointed by the Chief Executive as members of the newly formed Independent Committee of Experts for the Review on the Management, Planning and Conduct of Elections (“the Committee”)<sup>1</sup> on 15 December 2004.

## **The Review**

3. We have taken the two reports compiled by EAC on the Election as the basis for our review and put our focus on the practical arrangements of the polling day and the associated management responsibilities with a view to drawing up recommendations to improve the management, planning and conduct of elections in future. During the review, we have received a total of 37 written submissions and met with five individuals and seven organizations, some of which on more than one occasion.

4. Based on the information collated, we have examined the major problems that led to the chaos on the polling day, and reviewed the problems from different management and operational perspectives with a view to establishing the major causes, and above all, working out practicable improvement measures. The problems examined by the Committee include the insufficient supply of GC ballot boxes and delay in the replenishment; stopgap measures implemented in some polling

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<sup>1</sup> The Committee is chaired by Dr. Daniel TSE Chi Wai and comprises Mr. Philip CHEN Nan Lok, Mr. Daniel LAI and Mr. Herbert TSOI Hak Kong coming from respectively, the management and logistics, information technology and legal fields.

stations pending the arrival of additional GC ballot boxes including opening of ballot boxes, use of cardboard boxes as ballot boxes and use of rulers etc. to press the ballot papers inside the ballot boxes; the overcrowding problem and prolonged queuing at some polling stations; long working hours of polling-cum-counting staff; eviction or exclusion of candidates or their agents from polling stations, problem in compilation of voter turnout figures; delay in announcement of the election results without explanation; and ballot discrepancies in some FCs. We have also examined the problems from five aspects, viz. organization, planning, preparation, operation and communication. In this regard, we have reviewed the roles and responsibilities of the Constitutional Affairs Bureau, EAC and the Registration and Electoral Office (“REO”), the current set-up of REO and the Central Command Centre (“CCC”), the existing monitoring and reporting system, manpower planning for the polling day, staff recruitment and training, and formulation of contingency plans, and found that there is room for improvement.

## **Conclusions**

5. During the review, we did not find any fundamental or major problems with the existing electoral system and procedure. Instead, the chaos was the result of a number of implementation problems and some of which were caused by human errors or oversight. Our conclusions are set out in the ensuing paragraphs.

*Conclusion No.1 – Integrity of the Election upheld*

6. Although the chaos on the polling day has aroused great public concern, the problems and discontent were mainly concerned with the practical arrangements but not the election results. We consider that the quality of the Election as a whole was good and the integrity, fairness and impartiality of the election results were not compromised.

*Conclusion No.2 – Efforts of staff recognized*

7. Although some problems that occurred on the polling day were due to human errors or oversight, which in our view, were avoidable, and could have been handled in a better way, it should be recognized that all parties involved had tried their best to tackle the problems. We consider that the efforts of all parties involved, in particular the working staff in general, should not be ignored or undermined because of the chaos on the polling day.

*Conclusion No.3 – Importance of independence of the electoral process recognized*

8. The independence of the electoral process is important to ensure the integrity and impartiality of an election. Although there is room for improvement, the existing organization structure helps to ensure the independence of the electoral process from the Administration which in

our view, should be retained and protected.

*Conclusion No.4 – Current set-up and mode of operation of EAC and REO not adequate to cope with their roles and responsibilities*

9. We consider that the current set-up of both EAC and REO and their mode of operation need to be strengthened. EAC currently comprises three non-official members appointed by the Chief Executive to work on a part-time basis only and hence relies fully on REO for the detailed practical arrangements of an election. The line of command between the two bodies is however not crystal clear when compared with the typical working relationship between a policy bureau and its working or professional department, and an effective monitoring and reporting system does not seem to exist in practice. There is also a lack of an effective check and balance mechanism within REO even on critical issues such as the tests on the capacity of the new GC ballot box and the Interactive Voice Response System (“IVRS”) which was adopted for, inter alia, compiling the voter turnout figures in a Legislative Council election for the first time. Besides, most of the REO staff are general grades staff who are subject to posting every three to four years, which is not conducive to accumulation of experience. REO is also in need of technical expertise such as that in information technology (“IT”).

*Conclusion No.5 – Mindset of REO staff be changed*

10. REO staff were not alert and meticulous enough when drawing

up the practical arrangements for the Election and dealing with the problems arising on the polling day. The deficiency in the tests conducted on the capacity of the new GC ballot box and IVRS were respectively the main causes of the problems associated with the shortage of ballot boxes, and the system failure in compiling the voter turnout figures which led to EAC's decision to postpone the announcement of the election results. The mindset of REO staff should be changed to appreciate that a poll needs to be run as a military operation requiring meticulous planning, adequate preparation beforehand and execution with precision.

*Conclusion No.6 – Set-up of CCC not adequate to cope with crisis*

11. The current set-up of CCC including ranking of the supervisors and its chain of command, responsiveness to problems and physical setting was not adequate to cope with a widespread problem or a crisis like those occurred on the polling day. Lack of a contingency plan for dealing with such a crisis including a system to escalate the issue to the senior management level in good time was a main cause of the chaos.

*Conclusion No.7 – Training of and supervision on polling and counting staff inadequate*

12. The training provided to polling and counting staff is not adequate and totally effective. There were comments that the performance of the Presiding Officers (“PROs”) was uneven and that

some of the PROs were not familiar with their roles and duties. In addition, there was no close supervision on the actual operation of the polling and counting stations. Apart from the visits made by EAC members, REO did not conduct any spot checks or on-site inspections on the stations including the performance of the polling and counting staff.

*Conclusion No.8 – Transparency of and public relations on the electoral arrangements inadequate*

13. Neither EAC nor REO had taken the initiative to keep the public informed of the progress of the Election on the polling day including the shortage of GC ballot boxes and EAC's decision to postpone the announcement of the election results pending the completion of the manual verification of the voter turnout figures. Lack of transparency had generated unnecessary suspicion and speculation.

**Recommendations**

14. Our recommendations are set out in the ensuing paragraphs. We appreciate that implementation of some of the recommendations may need to be further examined in view of the financial implications and other relevant considerations, if any.

*Recommendation No.1 – Strengthening the set-up and mode of operation of EAC and REO and the check and balance mechanism*

15. We recommend that the composition of EAC should be strengthened by including people with the related expertise such as logistics and IT. There should also be a mechanism enabling EAC to solicit support and resources required for discharging its statutory duties more effectively. For example, task forces comprising representatives from the related bureaux/departments may be set up by EAC on a need basis. In addition, a stronger REO is required. We recommend that at least the key personnel of REO should be retained in their posts for a longer period of time, and that REO be strengthened by including staff with lateral thinking and expertise in IT. The line of command and reporting relationship between EAC and REO should also be formalized. There should be regular formal meetings between the two bodies. The check and balance mechanism as well as the monitoring and reporting system within REO should also be enhanced.

*Recommendation No.2 – Re-organizing the set-up of CCC*

16. We recommend that the work of CCC should be decentralized with the establishment of sub-centres at the regional and district levels with the assistance of District Offices. In parallel, there should be a reporting system to ensure that any significant issue will be escalated from the district centres to the respective regional centres and to CCC as



appropriate in good time for prompt decision and action. The physical set-up of CCC should also be reviewed to ensure that the venue is large enough to accommodate all teams of CCC (or at least those critical ones) and there is sufficient provision of all supporting resources including manpower and facilities required.

*Recommendation No.3 – Beefing up the contingency plans*

17. REO should thoroughly review the whole electoral process to identify the critical paths/items and draw up the corresponding contingency plans. For example, in an election, ballot papers and ballot boxes are the two most important electoral equipment and hence contingency plans should be drawn up to ensure their supply and security under emergency situations. Similarly, there should be a contingency plan for compiling the key electoral statistics including the voter turnout figures and the counting results manually.

*Recommendation No.4 – Establishment of an effective reporting system and a crisis management system*

18. We recommend that a system should be drawn up under which an emergency task force comprising key personnel with the necessary authority can be set up to enable prompt response and pooling of resources required for dealing with crisis including those arising totally beyond expectation. To operate effectively, the system needs to be supported by an effective reporting system under which significant issues

would be escalated to the senior management without delay.

*Recommendation No.5 – Enhancing staff training and related support*

19. We recommend that training for REO staff deployed to man the CCC should be enhanced. This includes provision of training on crisis management and customer services to staff at the supervisory level and staff manning the hotlines/helpdesks respectively. For polling and counting staff, training on the procedure and statutory requirements should be strengthened. In addition to briefing sessions, workshops and enquiry hotlines should be set up to enhance their understanding of the procedure and requirements. The Operation Manual should also be reviewed to ensure that all errors or inconsistencies are removed.

*Recommendation No.6 – Adequate preparation especially before adoption of any new features*

20. REO should be more meticulous about the planning and preparation of an election including selection of venues for use as polling stations. Adequate testing with the real life situation should be conducted with extreme caution before any new feature is adopted especially if a critical path/item in the electoral process such as important electoral equipment like ballot boxes and ballot papers is involved. Sufficient time should be allowed to do the testing and other preparation work. The testing results should also be cross-checked by a separate team as far as practicable.

*Recommendation No.7 – Exploring the feasibility of computerizing the polling and counting process*

21. To further improve the efficiency of the electoral process, we suggest further exploring the feasibility of computerizing the process as far as possible. For example, the use of Optical Mark Readers for sorting and counting FC votes is worth exploring. More computer systems may also be adopted for verifying the identity of electors and compiling the statistical returns including voter turnout figures and profiles of electors.

*Recommendation No.8 – Establishment of an inspection system over the operation of polling and counting stations*

22. We recommend that REO should set up an inspection team with the assistance of District Offices to conduct random checks on the operation of the polling and counting stations and the performance of the polling and counting staff. The findings may serve as a useful reference in future recruitment exercises for polling and counting staff.

*Recommendation No.9 – Streamlining the compilation of statistical returns*

23. In view of the fact that polling staff are required to compile a number of statistical returns and complete a lot of forms, which may

duplicate with each other to a certain extent, on an hourly basis on the polling day, we recommend that a critical review should be conducted with a view to streamlining the work as far as possible. This would enable the staff to put their focus on the actual polling and counting work on the polling day.

*Recommendation No.10 – Reviewing the counting and re-counting arrangements*

24. We recommend that if the polling-cum-counting arrangement is continued to be adopted for the GC elections in future, REO should ensure that all supporting arrangements are available. For one thing, there should be separate shifts of staff for the polling and counting duties. In addition, REO should identify venues with sufficient space for having separate polling and counting areas as far as practicable. On the re-counting arrangement, we recommend that instead of holding up the counting staff at individual counting stations, the feasibility of conducting re-counting in the Central Counting Station for re-count requests raised at the Station (normally for a GC as a whole) should be explored.

*Recommendation No.11 – Enhancing related civic education for general public and briefing for candidates/agents*

25. Civic education should be enhanced to educate the general public on the significance of an election and hence to be more tolerant when they are required to queue up for voting which seems to be unavoidable

in future elections with the increasing registered electorate and voter turnout rate. In addition, more briefing sessions should be organized for candidates/agents especially the newcomers.

*Recommendation No.12 – Regular updates on the progress of the poll*

26. We recommend that EAC and REO should enhance the transparency of the electoral process by making regular reports on the progress of their work and issues of concern before, on and after the polling day, including milestones for an election and new features to be adopted.

*Recommendation No.13 – Review of related legislation*

27. We consider that there is a need to review the electoral legislation to see whether there is room to enhance the clarity. In this regard, the flexibility required by the authorities concerned for handling unexpected emergency situations should be taken into account.