

Public consultation on Legislative Council Election proposed guidelines commences (with photo/video)

The following is issued on behalf of the Electoral Affairs Commission:

The Electoral Affairs Commission (EAC) today (March 9) released the proposed guidelines on election-related activities in respect of the Legislative Council Election for public consultation. The consultation will last for 30 days until April 7.

"The 2020 Legislative Council General Election will be held in the third quarter of this year. Before each general election, the EAC will revise and update the guidelines for use at the forthcoming general election and the subsequent by-elections," the Commission Chairman, Mr Justice Barnabas Fung Wah, said at a press conference.

"The proposed guidelines have two aspects, namely, to explain in simple language the relevant provisions under the electoral legislation and to promulgate a code of conduct in election-related activities based on the fair and equal treatment principle, to ensure that the elections are conducted in an honest and fair manner," Mr Justice Fung said.

"The proposed guidelines are prepared on the basis of the existing guidelines in respect of Legislative Council Election with revisions to reflect the relevant legislative amendments and proposed electoral arrangements in light of experience in past elections. Certain parts of the guidelines are also further elaborated for better understanding of the principles."

Having taken into account the experience gained from the 2019 District Council Ordinary Election (DCOE) last year, the EAC has put forth recommendations on electoral arrangements in the proposed guidelines to seek opinions of the public during the consultation period.

(I) Arrangements for queuing at polling stations

"On polling day of 2019 DCOE, after being informed of long queues at some polling stations, the EAC immediately instructed all presiding officers (PROs) to adopt flexible arrangements in accordance with the principle of equality. For instance, where electors who have difficulties in standing for a long time, the PRO might mark their position in the queue and allow them to sit while waiting for their turn of collecting the ballot paper from the issuing desk," Mr Justice Fung said.

"On and after the polling day, there were suggestions that special arrangements should be given to electors of a certain age group or having

difficulties in standing for a long time to vote, so as to shorten their queuing time, or even to have priority in entering the polling station to vote. We welcome views from the public to the EAC on queuing arrangements at polling stations, such as whether and how to make special arrangements to facilitate electors with special needs, such as senior citizens aged 70 or above, pregnant women and physically handicapped persons with mobility difficulties, or even to accord them with priority to vote."

(II) Checking of personal entry on the copy of register by electors

To safeguard the secrecy of ballot, information on the copy of register will not be disclosed to electors when they collect ballot papers. For the sake of increasing transparency, the EAC suggests that electors may request to check if a line has been drawn on his/her entry on the copy of register thereat in such a way without compromising the secrecy of ballot.

(III) Order at public area of counting stations

On polling day of 2019 DCOE, disruptive acts took place in some counting stations where there were members of the public arguing, shouting, and even insulting electoral staff and interfering with the counting process. The EAC emphasised that, in accordance with the law, PROs are required to determine the validity of questionable ballot papers and PRO's decision on any ballot paper is final. If candidates/electors for the relevant constituency are not satisfied with the decision, they may question the election result by an election petition. Any attempt to exert pressure on the PROs is futile and this will only delay the announcement of election results.

"We suggest specifying the number of public entrants to the counting station having regard to the capacity of each counting station, and requesting public entrants to register their names and identity document numbers. In addition, the EAC will explore the suggestion of video-recording the entire counting process in the counting station for the sake of maintaining order as well as for evidence, if necessary, as this is often done by the media and the public," Mr Justice Fung said.

(IV) Enhancing the public's knowledge on the polling arrangements

"In past elections, samples for determination of validity of questionable ballot papers are placed at counting zone for reference of the candidates, election agents and counting agents. We will also consider displaying in the public area of the counting station the same set of samples, in order to enable the public to have a better understanding and to allay their doubts," Mr Justice Fung said.

In addition, the proposed guidelines also remind those who intend to run for the Legislative Council Election that under the Elections (Corrupt and Illegal Conduct) Ordinance, the term "candidate" is broadly defined and it includes a person who has publicly declared an intention to stand for an election before the close of nominations regardless of whether he/she has submitted his/her nomination form. Whether a person has publicly declared an

intention to stand for election is to be considered as a matter of substance and not form, based on matters including the intention to stand for the Legislative Council election, whether the intention to stand for election is made public and/or whether the acts constitute part of the machinery of the election. Therefore, prospective candidates must exercise due care to avoid incurring election expenses inadvertently with attending legal responsibilities.

The proposed guidelines can be downloaded from the Commission website (www.eac.hk). They are also available for viewing at the Registration and Electoral Office and the Home Affairs Enquiry Centres of District Offices.

Due to public health consideration, in order to reduce the risk of the spread of the novel coronavirus in the community from public gathering, there will be no public forum for this consultation. Members of the public are welcome to express their views on the proposed guidelines through written submissions to the EAC by post at 10/F, Harbour Centre, 25 Harbour Road, Wan Chai, by fax (2511 1682) or by email (eaceng@eac.hk) not later than April 7. Late submissions will not be considered.

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