

# Report on the 2020 Legislative Council General Election published today

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

The Electoral Affairs Commission (EAC) today (October 12) published the Report on the 2020 Legislative Council General Election (LCGE) detailing the preparatory work conducted by the EAC and the Registration and Electoral Office (REO) in respect of the LCGE. In response to the proposals for enhancing or altering the current electoral arrangements as put forward in society, the EAC sets out in the report the relevant factual background and legal basis, and attempts to examine their feasibility and pros and cons, with a view to facilitating discussion among the public. It is also for the reference and consideration by the Government, if necessary, to introduce amendment of the electoral law to the Legislative Council (LegCo) with a view to enhancing electoral arrangements.

As at the Government's announcement on the postponement of the LCGE to September 5, 2021, the EAC and REO had already carried out various preparatory work for different stages of the 2020 LCGE, including proactively securing polling stations and recruiting polling staff, implementing various personal hygiene measures at the polling stations in response to the COVID-19 epidemic situation, conducting the voter registration campaign, publishing the Guidelines on Election-related Activities and launching the early stage of publicity campaign, etc.

On the other hand, the EAC is aware of calls in society for alteration or enhancement of the current electoral arrangements, including the introduction of the electronic poll register for the issuance of ballot papers, electronic voting and counting, voting outside Hong Kong, and providing dedicated queues for the elderly, pregnant women and persons with mobility difficulties due to disabilities (persons-in-need). The EAC's major considerations and suggestions are as follows:

## Electronic poll register

The EAC has all along advocated a wider use of information technology in the electoral process. In fact, a study on the use of an electronic poll register was begun by the REO in 2019, and it was originally planned to introduce the electronic poll register for issuing ballot papers in the Election Committee Subsector Ordinary Elections to be held in December 2021.

In light of the postponement of the LCGE for one year, the EAC recommends that the REO should expedite the development and preparation for the introduction of the electronic poll register to the LCGE to be held in September next year. Since the personal data of over 4 million electors is involved, the electronic poll register must only be introduced after the legislative amendments, open tender, information technology and loading

capacity are all ready and in place, and the new system has passed information security risk assessments and reviews, privacy impact assessments, as well as the testing and certification by an independent and accredited computer audit and testing service agent.

#### Queuing arrangements on the polling day

All along, just like elections elsewhere, electors have to queue up for the collection of ballot papers in Hong Kong.

The use of hardcopy final register (FR) has, to a certain extent, rendered it inflexible in the issue of ballot papers. Taking into consideration the constraints on legal and operational perspectives, the REO had formulated special accommodating arrangements for the persons-in-need in the 2020 LCGE which was originally scheduled for this year (please refer to paragraph 5.7 of the Report on the 2020 LCGE for details).

Nevertheless, if the electronic poll register is adopted for the issuance of ballot papers in future elections, ballot paper issuing desks will no longer be limited by the restrictions of the splitting of the hardcopy FR, and thus be able to serve electors with any alphabetical prefixes in their Hong Kong Identity Card number. The setting up of dedicated queues and dedicated issuing desks for the persons-in-need on the polling day will become practicable, optimising the use of resources. In short, with higher flexibility of the deployment of ballot paper issuing desks and staff, on one hand, it can address the complaints against repeated queuing for deterring elderly electors from collecting ballot papers, and on the other, it can help reduce the overall waiting time, i.e. whenever any dedicated issuing desks or any normal issuing desks are free, electors waiting in other queues can be flexibly directed there to collect their ballot papers.

At the moment, the electoral law contains the provision of fair and equal treatment, but does not contain any provision for priority treatment. There are diverging views on the matter in society. If priority treatment were to be introduced for certain types or age groups of electors, corresponding amendment would have to be introduced by the Government for deliberation and resolution by LegCo after due consideration of the different views. The EAC is of the view that the legislative provisions should be clear and detailed enough to avoid unnecessary arguments upon implementation.

#### Electronic voting

Autonomy and secrecy of the vote are the cornerstones of fair elections.

The EAC is of the view that adopting electronic voting in elections may have the benefits of bringing convenience to the electors and enhancing the efficiency of the poll and the count. However, if electronic voting is allowed, careful consideration and study must be made on various issues including the verification of the elector's identity, autonomy and secrecy of the vote, matters concerning technology and system security, arrangements for monitoring the poll and count, etc. Otherwise, the openness, fairness and

integrity of the election may be seriously impinged. Introducing electronic voting to elections in Hong Kong is an issue of far-reaching impact. There must be extensive and in-depth discussions in society as well as give and take before the decision on whether the well-established, effective and credible model of hardcopy paper ballots is replaced.

#### Electronic counting and central counting

Under the subsisting law, geographical constituency (GC) elections adopt the poll-cum-count arrangement whereas functional constituency (FC) elections adopt central counting. Having regard to the practicable considerations, such as the number of counting machines required, counting procedures, cost effectiveness and technical support, etc, any study on the introduction of electronic counting should be premised on the basis of central counting.

For the LegCo GC elections, the size of the ballot papers in fact exceeded the capability of any counting machine available in the market. In addition, if counting machines are to be installed at over 600 counting stations, there would be considerable practical difficulties in providing the corresponding technical support. It is also not cost-effective. On the premise that electronic voting is not to be introduced and hardcopy ballot papers are in use, it is not appropriate to adopt electronic counting under the poll-cum-count arrangement.

As for the traditional FCs, most of the traditional FCs only involve a single seat and manual counting does not present much difficulty. Having considered the improvement measures (e.g. the use of an electronic poll register for issuance of ballot papers) to be introduced in the LCGE to be held in September 2021, the EAC considers that there is no priority in implementing the electronic counting for the traditional FCs.

Furthermore, it should be noted that there will be more than 10 000 people, including counting staff, candidates, the media and members of the public in the central counting station. In order to avoid public health risks arising from the gathering of crowds associated with the operation of the central counting station, thereby possibly affecting the conduct of LegCo elections, the EAC recommends that the REO should conduct a comprehensive review on the current central counting arrangement, particularly the possibility of counting the District Council (second) FC votes at respective polling stations.

#### Identifying venues as polling stations

In identifying polling stations, the REO endeavours to secure bigger venues. However, the REO has often encountered enormous difficulties in borrowing venues for use as polling stations. The EAC points out that it is impossible to conduct an election without the venues for setting up the polling stations. The EAC recommends that the Government, when leasing premises and venues to schools or subvented organisations, should consider adding provisions in relevant land grants or leases to require that schools or subvented organisations should assist in the organisation of public

elections by providing their venues and facilities for the setting up of polling stations.

### Voting outside Hong Kong

The EAC understands the impact of the COVID-19 epidemic might have on the electors abroad in exercising their voting rights but has to point out that voting outside Hong Kong involves substantial considerations in electoral policies. The Government should study the subject from policy perspectives and the legal aspects, and consider objectively such factors as the overall impact of the epidemic on the election, feasibility in setting up polling stations outside Hong Kong, and the number of eligible electors in the places concerned in order to draw up the necessary proposals to amend the law, so as to facilitate a thorough discussion in society and then introduction to LegCo for deliberation.

If voting outside Hong Kong is to be implemented, a suitable monitoring mechanism should be in place to ensure that the credibility of the election would not be compromised. As to the legal aspect, the Government must carefully consider the applicability and enforcement of the subsisting electoral law in places outside Hong Kong so that the issue of law enforcement abroad can be addressed. In the event that the Government does decide to implement voting outside Hong Kong, as the EAC has no experience in conducting the poll abroad, it has to rely on the assistance and support of relevant government departments familiar with the situation and operation abroad for co-ordination and implementation.

### "Primary election(s)"

According to section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap 554), all candidates must lodge with the relevant authority an election return setting out the candidate's election expenses and election donations received. Therefore, a person who meets the definition of "candidate" as stipulated in section 2 of the ECICO must declare all expenses involved in the election, regardless of whether he/she has submitted his/her nomination form to run for the 2020 LCGE.

The EAC needs to point out that the LCGE is the one conducted and supervised by the EAC in accordance with the subsisting electoral law, and there is no mechanism of any so called "primary election(s)" under the electoral system in Hong Kong. There are views in society that some electors will be misled by those "primary election(s)" involving massive electors and candidates, and wrongly perceive them as part of the public election, causing confusion and affecting the outcome of the election. As members of the public are very concerned about the "primary election(s)", the EAC is of the view that the Government should seriously look into the relevant issues so as to consider if it would be necessary to control or restrict such activities.

The EAC is an independent, impartial and apolitical body which decides on public election matters in accordance with actual and objective considerations and related law. The EAC submitted the Report on the 2020 LCGE

to the Chief Executive on October 9. In line with the principle of open and transparent elections and past practice, the Government agreed with the EAC's recommendation that the report should be made public. The full report can be downloaded from the EAC website ([www.eac.hk](http://www.eac.hk)).